



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3117

by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

20 ILCS 1305/Art. 15 heading new
20 ILCS 1305/15-5 new
20 ILCS 1305/15-10 new
20 ILCS 1305/15-15 new
20 ILCS 1305/15-20 new
20 ILCS 1305/15-25 new
20 ILCS 1305/15-30 new
35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Department of Human Services Act of the Civil Administrative Code of Illinois. Creates the "Achieving a Better Life Experience" or "ABLE" account plan to encourage and assist individuals and families in saving private funds for the purpose of supporting persons with disabilities in endeavors to maintain health, independence, and quality of life. and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, federal and State medical and disability insurance, the beneficiary's employment, and other sources. Provides that the Secretary of Human Services shall be primarily responsible for the plan but shall work with the Illinois State Board of Investment. Sets forth the requirements of the plan. Requires the Secretary to adopt rules to implement the program. Defines required terms. Amends the Illinois Income Tax Act. Allows a deduction to an individual taxpayer for qualified contributions to an ABLE account.

LRB099 10239 JLK 30465 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Department of Human Services Act is amended
5 by adding Article 15 as follows:

6 (20 ILCS 1305/Art. 15 heading new)

7 ARTICLE 15.

8 POWERS AND DUTIES RELATING TO THE ABLE ACCOUNT PROGRAM

9 (20 ILCS 1305/15-5 new)

10 Sec. 15-5. Definitions. As used in this Article:

11 "ABLE account" and "account" means an account established
12 for the purpose of financing certain qualified expenses of
13 persons with disabilities as set forth in this Section.

14 "ABLE account plan" and "plan" mean the savings account
15 plan provided for in this Article.

16 "Beneficiary" means the ABLE account owner, or the person
17 entitled to apply the saving accrued in an ABLE account, if
18 that person is not the account owner.

19 "Board" means the Illinois State Board of Investment.

20 "Executive Director" means the Executive Director of the
21 Illinois State Board of Investment.

22 "Individual with a disability" means an individual who,

1 before the date on which the individual attains age 26: (1) has
2 a medically determinable physical or mental impairment, which
3 results in marked and severe functional limitations and which
4 can be expected to result in death, or which has lasted or can
5 be expected to last for a continuous period of not less than 12
6 months; or (2) is blind.

7 "Participating financial institution" means any financial
8 institution insured by the Federal Deposit Insurance
9 Corporation and lawfully doing business in the State of
10 Illinois and any credit union approved by the State Treasurer
11 and lawfully doing business in the State of Illinois that
12 agrees to process new accounts in the ABLE account program.

13 "Qualified disability expense" means any expense related
14 to the beneficiary as a result of living with their disability.
15 These expenses may include medical and dental care, education,
16 employment training, housing, assistive technology, personal
17 support services, health care expenses, financial management,
18 and administrative services.

19 "Qualified distribution" means a distribution from an ABLE
20 account used to pay for a qualified expense. "Qualified
21 distribution" also includes investment earnings generated by
22 the ABLE account.

23 "Qualified withdrawal" means a withdrawal from an ABLE
24 account to pay a qualified disability expense of the
25 beneficiary of the account. A qualified withdrawal may be made
26 by an agent of the beneficiary who has the power of attorney or

1 by the beneficiary's legal guardian.

2 (20 ILCS 1305/15-10 new)

3 Sec. 15-10. ABLE account program. The "Achieving a Better
4 Life Experience" or "ABLE" account plan is hereby created to
5 encourage and assist individuals and families in saving private
6 funds for the purpose of supporting persons with disabilities
7 in endeavors to maintain health, independence, and quality of
8 life, and to provide secure funding for disability-related
9 expenses on behalf of designated beneficiaries with
10 disabilities that will supplement, but not supplant, benefits
11 provided through private insurance, federal and State medical
12 and disability insurance, the beneficiary's employment, and
13 other sources.

14 New accounts in the ABLE account program may be processed
15 through participating financial institutions. Participating
16 financial institutions may charge a processing fee to
17 participants to open an account in the program. Every
18 contribution received by a financial institution for
19 investment in the ABLE account program shall be transferred
20 from the financial institution to a location selected by the
21 Secretary within one business day following the day that the
22 funds must be made available in accordance with federal law.
23 All communications from the Secretary to participants and
24 donors shall reference the participating financial institution
25 at which the account was processed.

1 The Secretary may invest the moneys in the ABLE account
2 program in the same manner and in the same types of investments
3 provided for the investment of moneys by the Board. Upon the
4 Secretary's request, the Board shall provide any necessary
5 support and resources, including staff, in order to assist the
6 Secretary in administering the ABLE account program. To enhance
7 the safety and liquidity of the ABLE account program, to ensure
8 the diversification of the investment portfolio of the pool,
9 and in an effort to keep investment dollars in the State of
10 Illinois, the Secretary may make a percentage of each account
11 available for investment in participating financial
12 institutions doing business in the State.

13 (20 ILCS 1305/15-15 new)

14 Sec. 15-15. Contributions; distributions.

15 (a) Under the plan, a person may make contributions to an
16 ABLE account to meet the qualified disability expenses of the
17 designated beneficiary of the account. Contributions to and the
18 maximum balance of an ABLE account are subject to the
19 requirements of subsection (b) of Section 529A of the Internal
20 Revenue Code. The plan must be operated as an accounts-type
21 plan that permits persons to save for qualified disability
22 expenses incurred by or on behalf of an individual with a
23 disability. A separate account must be maintained for each
24 beneficiary for whom contributions are made, and no more than
25 one account shall be established per beneficiary.

1 (b) Qualified distributions may be made: (i) at any time
2 after an expense is made; or (ii) at any time up to 90 days
3 prior to an expense is made, to any person who has guardianship
4 or custody over the person with a disability, if and only if
5 the guardian or custodian has in hand a written estimate of the
6 imminent expense to be incurred by or on behalf of the person.
7 Written evidences of this type, if used as the basis for a
8 prior distribution, must be retained by the recipient of the
9 distribution for not less than 10 years. The Department shall,
10 by administrative rule, limit the contributions that may be
11 made on behalf of a designated beneficiary, in line with any
12 federal rules in place as of the effective date of this
13 amendatory Act of the 99th General Assembly or any future
14 federal regulations.

15 Distributions from an ABLE account that are not used for a
16 qualified expense are subject to income tax on the portion of
17 such distribution attributable to earnings from the account, in
18 addition to a 10% penalty. Upon the death of a beneficiary, the
19 amount remaining in a beneficiary's ABLE account must be
20 distributed in accordance with subsection (f) of Section 529A
21 of the Internal Revenue Code. The provisions of this Section
22 are exempt from taxation under Section 250 of the Illinois
23 Income Tax Act and any other tax imposed by the State of
24 Illinois or any of its subdivisions so long as disbursements
25 are used for qualified expenses.

26 In designing and establishing the plan's requirements and

1 in negotiating or entering into contracts with third parties,
2 the Secretary shall consult with the Executive Director. The
3 Secretary and the Executive Director shall establish an annual
4 fee, equal to a percentage of the average daily assets of the
5 plan, to be imposed on participants to recover the costs of
6 administration, record keeping, and investment management. The
7 Secretary shall administer the plan, including accepting and
8 processing applications, maintaining account records, making
9 payments, and undertaking any other necessary tasks to
10 administer the plan. Notwithstanding other requirements of
11 this Article, the Secretary shall adopt rules for purposes of
12 implementing and administering the plan.

13 (20 ILCS 1305/15-20 new)

14 Sec. 15-20. Compliance with federal rules and regulations.
15 The Secretary shall ensure that the plan meets the requirements
16 for an ABLE account under Section 529 of the Internal Revenue
17 Code. In doing so, the Secretary shall adopt rules and
18 establish guidelines as necessary to ensure this compliance.

19 (20 ILCS 1305/15-25 new)

20 Sec. 15-25. The Secretary shall promote awareness of the
21 availability and advantages of the ABLE account program as a
22 way to assist individuals and families in saving private funds
23 for the purpose of supporting individuals with disabilities.
24 Neither the Secretary nor the Department shall publicize or

1 otherwise market the ABLE account program or accept any moneys
2 into the ABLE account program until the Internal Revenue
3 Service issues its final regulations concerning State ABLE
4 account programs.

5 (20 ILCS 1305/15-30 new)

6 Sec. 15-30. Adoption of rules. The Secretary may adopt any
7 other rules or regulations necessary to implement the
8 requirements of this Article.

9 Section 10. The Illinois Income Tax Act is amended by
10 changing Section 203 as follows:

11 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

12 Sec. 203. Base income defined.

13 (a) Individuals.

14 (1) In general. In the case of an individual, base
15 income means an amount equal to the taxpayer's adjusted
16 gross income for the taxable year as modified by paragraph
17 (2).

18 (2) Modifications. The adjusted gross income referred
19 to in paragraph (1) shall be modified by adding thereto the
20 sum of the following amounts:

21 (A) An amount equal to all amounts paid or accrued
22 to the taxpayer as interest or dividends during the
23 taxable year to the extent excluded from gross income

1 in the computation of adjusted gross income, except
2 stock dividends of qualified public utilities
3 described in Section 305(e) of the Internal Revenue
4 Code;

5 (B) An amount equal to the amount of tax imposed by
6 this Act to the extent deducted from gross income in
7 the computation of adjusted gross income for the
8 taxable year;

9 (C) An amount equal to the amount received during
10 the taxable year as a recovery or refund of real
11 property taxes paid with respect to the taxpayer's
12 principal residence under the Revenue Act of 1939 and
13 for which a deduction was previously taken under
14 subparagraph (L) of this paragraph (2) prior to July 1,
15 1991, the retrospective application date of Article 4
16 of Public Act 87-17. In the case of multi-unit or
17 multi-use structures and farm dwellings, the taxes on
18 the taxpayer's principal residence shall be that
19 portion of the total taxes for the entire property
20 which is attributable to such principal residence;

21 (D) An amount equal to the amount of the capital
22 gain deduction allowable under the Internal Revenue
23 Code, to the extent deducted from gross income in the
24 computation of adjusted gross income;

25 (D-5) An amount, to the extent not included in
26 adjusted gross income, equal to the amount of money

1 withdrawn by the taxpayer in the taxable year from a
2 medical care savings account and the interest earned on
3 the account in the taxable year of a withdrawal
4 pursuant to subsection (b) of Section 20 of the Medical
5 Care Savings Account Act or subsection (b) of Section
6 20 of the Medical Care Savings Account Act of 2000;

7 (D-10) For taxable years ending after December 31,
8 1997, an amount equal to any eligible remediation costs
9 that the individual deducted in computing adjusted
10 gross income and for which the individual claims a
11 credit under subsection (l) of Section 201;

12 (D-15) For taxable years 2001 and thereafter, an
13 amount equal to the bonus depreciation deduction taken
14 on the taxpayer's federal income tax return for the
15 taxable year under subsection (k) of Section 168 of the
16 Internal Revenue Code;

17 (D-16) If the taxpayer sells, transfers, abandons,
18 or otherwise disposes of property for which the
19 taxpayer was required in any taxable year to make an
20 addition modification under subparagraph (D-15), then
21 an amount equal to the aggregate amount of the
22 deductions taken in all taxable years under
23 subparagraph (Z) with respect to that property.

24 If the taxpayer continues to own property through
25 the last day of the last tax year for which the
26 taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer
2 was allowed in any taxable year to make a subtraction
3 modification under subparagraph (Z), then an amount
4 equal to that subtraction modification.

5 The taxpayer is required to make the addition
6 modification under this subparagraph only once with
7 respect to any one piece of property;

8 (D-17) An amount equal to the amount otherwise
9 allowed as a deduction in computing base income for
10 interest paid, accrued, or incurred, directly or
11 indirectly, (i) for taxable years ending on or after
12 December 31, 2004, to a foreign person who would be a
13 member of the same unitary business group but for the
14 fact that foreign person's business activity outside
15 the United States is 80% or more of the foreign
16 person's total business activity and (ii) for taxable
17 years ending on or after December 31, 2008, to a person
18 who would be a member of the same unitary business
19 group but for the fact that the person is prohibited
20 under Section 1501(a)(27) from being included in the
21 unitary business group because he or she is ordinarily
22 required to apportion business income under different
23 subsections of Section 304. The addition modification
24 required by this subparagraph shall be reduced to the
25 extent that dividends were included in base income of
26 the unitary group for the same taxable year and

1 received by the taxpayer or by a member of the
2 taxpayer's unitary business group (including amounts
3 included in gross income under Sections 951 through 964
4 of the Internal Revenue Code and amounts included in
5 gross income under Section 78 of the Internal Revenue
6 Code) with respect to the stock of the same person to
7 whom the interest was paid, accrued, or incurred.

8 This paragraph shall not apply to the following:

9 (i) an item of interest paid, accrued, or
10 incurred, directly or indirectly, to a person who
11 is subject in a foreign country or state, other
12 than a state which requires mandatory unitary
13 reporting, to a tax on or measured by net income
14 with respect to such interest; or

15 (ii) an item of interest paid, accrued, or
16 incurred, directly or indirectly, to a person if
17 the taxpayer can establish, based on a
18 preponderance of the evidence, both of the
19 following:

20 (a) the person, during the same taxable
21 year, paid, accrued, or incurred, the interest
22 to a person that is not a related member, and

23 (b) the transaction giving rise to the
24 interest expense between the taxpayer and the
25 person did not have as a principal purpose the
26 avoidance of Illinois income tax, and is paid

1 pursuant to a contract or agreement that
2 reflects an arm's-length interest rate and
3 terms; or

4 (iii) the taxpayer can establish, based on
5 clear and convincing evidence, that the interest
6 paid, accrued, or incurred relates to a contract or
7 agreement entered into at arm's-length rates and
8 terms and the principal purpose for the payment is
9 not federal or Illinois tax avoidance; or

10 (iv) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a person if
12 the taxpayer establishes by clear and convincing
13 evidence that the adjustments are unreasonable; or
14 if the taxpayer and the Director agree in writing
15 to the application or use of an alternative method
16 of apportionment under Section 304(f).

17 Nothing in this subsection shall preclude the
18 Director from making any other adjustment
19 otherwise allowed under Section 404 of this Act for
20 any tax year beginning after the effective date of
21 this amendment provided such adjustment is made
22 pursuant to regulation adopted by the Department
23 and such regulations provide methods and standards
24 by which the Department will utilize its authority
25 under Section 404 of this Act;

26 (D-18) An amount equal to the amount of intangible

1 expenses and costs otherwise allowed as a deduction in
2 computing base income, and that were paid, accrued, or
3 incurred, directly or indirectly, (i) for taxable
4 years ending on or after December 31, 2004, to a
5 foreign person who would be a member of the same
6 unitary business group but for the fact that the
7 foreign person's business activity outside the United
8 States is 80% or more of that person's total business
9 activity and (ii) for taxable years ending on or after
10 December 31, 2008, to a person who would be a member of
11 the same unitary business group but for the fact that
12 the person is prohibited under Section 1501(a)(27)
13 from being included in the unitary business group
14 because he or she is ordinarily required to apportion
15 business income under different subsections of Section
16 304. The addition modification required by this
17 subparagraph shall be reduced to the extent that
18 dividends were included in base income of the unitary
19 group for the same taxable year and received by the
20 taxpayer or by a member of the taxpayer's unitary
21 business group (including amounts included in gross
22 income under Sections 951 through 964 of the Internal
23 Revenue Code and amounts included in gross income under
24 Section 78 of the Internal Revenue Code) with respect
25 to the stock of the same person to whom the intangible
26 expenses and costs were directly or indirectly paid,

1 incurred, or accrued. The preceding sentence does not
2 apply to the extent that the same dividends caused a
3 reduction to the addition modification required under
4 Section 203(a)(2)(D-17) of this Act. As used in this
5 subparagraph, the term "intangible expenses and costs"
6 includes (1) expenses, losses, and costs for, or
7 related to, the direct or indirect acquisition, use,
8 maintenance or management, ownership, sale, exchange,
9 or any other disposition of intangible property; (2)
10 losses incurred, directly or indirectly, from
11 factoring transactions or discounting transactions;
12 (3) royalty, patent, technical, and copyright fees;
13 (4) licensing fees; and (5) other similar expenses and
14 costs. For purposes of this subparagraph, "intangible
15 property" includes patents, patent applications, trade
16 names, trademarks, service marks, copyrights, mask
17 works, trade secrets, and similar types of intangible
18 assets.

19 This paragraph shall not apply to the following:

20 (i) any item of intangible expenses or costs
21 paid, accrued, or incurred, directly or
22 indirectly, from a transaction with a person who is
23 subject in a foreign country or state, other than a
24 state which requires mandatory unitary reporting,
25 to a tax on or measured by net income with respect
26 to such item; or

1 (ii) any item of intangible expense or cost
2 paid, accrued, or incurred, directly or
3 indirectly, if the taxpayer can establish, based
4 on a preponderance of the evidence, both of the
5 following:

6 (a) the person during the same taxable
7 year paid, accrued, or incurred, the
8 intangible expense or cost to a person that is
9 not a related member, and

10 (b) the transaction giving rise to the
11 intangible expense or cost between the
12 taxpayer and the person did not have as a
13 principal purpose the avoidance of Illinois
14 income tax, and is paid pursuant to a contract
15 or agreement that reflects arm's-length terms;
16 or

17 (iii) any item of intangible expense or cost
18 paid, accrued, or incurred, directly or
19 indirectly, from a transaction with a person if the
20 taxpayer establishes by clear and convincing
21 evidence, that the adjustments are unreasonable;
22 or if the taxpayer and the Director agree in
23 writing to the application or use of an alternative
24 method of apportionment under Section 304(f);

25 Nothing in this subsection shall preclude the
26 Director from making any other adjustment

1 otherwise allowed under Section 404 of this Act for
2 any tax year beginning after the effective date of
3 this amendment provided such adjustment is made
4 pursuant to regulation adopted by the Department
5 and such regulations provide methods and standards
6 by which the Department will utilize its authority
7 under Section 404 of this Act;

8 (D-19) For taxable years ending on or after
9 December 31, 2008, an amount equal to the amount of
10 insurance premium expenses and costs otherwise allowed
11 as a deduction in computing base income, and that were
12 paid, accrued, or incurred, directly or indirectly, to
13 a person who would be a member of the same unitary
14 business group but for the fact that the person is
15 prohibited under Section 1501(a)(27) from being
16 included in the unitary business group because he or
17 she is ordinarily required to apportion business
18 income under different subsections of Section 304. The
19 addition modification required by this subparagraph
20 shall be reduced to the extent that dividends were
21 included in base income of the unitary group for the
22 same taxable year and received by the taxpayer or by a
23 member of the taxpayer's unitary business group
24 (including amounts included in gross income under
25 Sections 951 through 964 of the Internal Revenue Code
26 and amounts included in gross income under Section 78

1 of the Internal Revenue Code) with respect to the stock
2 of the same person to whom the premiums and costs were
3 directly or indirectly paid, incurred, or accrued. The
4 preceding sentence does not apply to the extent that
5 the same dividends caused a reduction to the addition
6 modification required under Section 203(a)(2)(D-17) or
7 Section 203(a)(2)(D-18) of this Act.

8 (D-20) For taxable years beginning on or after
9 January 1, 2002 and ending on or before December 31,
10 2006, in the case of a distribution from a qualified
11 tuition program under Section 529 of the Internal
12 Revenue Code, other than (i) a distribution from a
13 College Savings Pool created under Section 16.5 of the
14 State Treasurer Act or (ii) a distribution from the
15 Illinois Prepaid Tuition Trust Fund, an amount equal to
16 the amount excluded from gross income under Section
17 529(c)(3)(B). For taxable years beginning on or after
18 January 1, 2007, in the case of a distribution from a
19 qualified tuition program under Section 529 of the
20 Internal Revenue Code, other than (i) a distribution
21 from a College Savings Pool created under Section 16.5
22 of the State Treasurer Act, (ii) a distribution from
23 the Illinois Prepaid Tuition Trust Fund, or (iii) a
24 distribution from a qualified tuition program under
25 Section 529 of the Internal Revenue Code that (I)
26 adopts and determines that its offering materials

1 comply with the College Savings Plans Network's
2 disclosure principles and (II) has made reasonable
3 efforts to inform in-state residents of the existence
4 of in-state qualified tuition programs by informing
5 Illinois residents directly and, where applicable, to
6 inform financial intermediaries distributing the
7 program to inform in-state residents of the existence
8 of in-state qualified tuition programs at least
9 annually, an amount equal to the amount excluded from
10 gross income under Section 529(c) (3) (B) .

11 For the purposes of this subparagraph (D-20), a
12 qualified tuition program has made reasonable efforts
13 if it makes disclosures (which may use the term
14 "in-state program" or "in-state plan" and need not
15 specifically refer to Illinois or its qualified
16 programs by name) (i) directly to prospective
17 participants in its offering materials or makes a
18 public disclosure, such as a website posting; and (ii)
19 where applicable, to intermediaries selling the
20 out-of-state program in the same manner that the
21 out-of-state program distributes its offering
22 materials;

23 (D-21) For taxable years beginning on or after
24 January 1, 2007, in the case of transfer of moneys from
25 a qualified tuition program under Section 529 of the
26 Internal Revenue Code that is administered by the State

1 to an out-of-state program, an amount equal to the
2 amount of moneys previously deducted from base income
3 under subsection (a) (2) (Y) of this Section;

4 (D-22) For taxable years beginning on or after
5 January 1, 2009, in the case of a nonqualified
6 withdrawal or refund of moneys from a qualified tuition
7 program under Section 529 of the Internal Revenue Code
8 administered by the State that is not used for
9 qualified expenses at an eligible education
10 institution, an amount equal to the contribution
11 component of the nonqualified withdrawal or refund
12 that was previously deducted from base income under
13 subsection (a) (2) (y) of this Section, provided that
14 the withdrawal or refund did not result from the
15 beneficiary's death or disability;

16 (D-23) An amount equal to the credit allowable to
17 the taxpayer under Section 218(a) of this Act,
18 determined without regard to Section 218(c) of this
19 Act;

20 (D-24) For taxable years beginning on or after
21 January 1, 2016, in the case of a nonqualified
22 withdrawal or refund of moneys from a qualified ABLE
23 account under Article 15 of the Department of Human
24 Services Act of the Civil Administrative Code of
25 Illinois administered by the State that is not used for
26 qualified expenses on behalf of the beneficiary of the

1 account, an amount equal to the contribution component
2 of the nonqualified withdrawal or refund that was
3 previously deducted from base income under subsection
4 (a) (2) (HH) of this Section;

5 and by deducting from the total so obtained the sum of the
6 following amounts:

7 (E) For taxable years ending before December 31,
8 2001, any amount included in such total in respect of
9 any compensation (including but not limited to any
10 compensation paid or accrued to a serviceman while a
11 prisoner of war or missing in action) paid to a
12 resident by reason of being on active duty in the Armed
13 Forces of the United States and in respect of any
14 compensation paid or accrued to a resident who as a
15 governmental employee was a prisoner of war or missing
16 in action, and in respect of any compensation paid to a
17 resident in 1971 or thereafter for annual training
18 performed pursuant to Sections 502 and 503, Title 32,
19 United States Code as a member of the Illinois National
20 Guard or, beginning with taxable years ending on or
21 after December 31, 2007, the National Guard of any
22 other state. For taxable years ending on or after
23 December 31, 2001, any amount included in such total in
24 respect of any compensation (including but not limited
25 to any compensation paid or accrued to a serviceman
26 while a prisoner of war or missing in action) paid to a

1 resident by reason of being a member of any component
2 of the Armed Forces of the United States and in respect
3 of any compensation paid or accrued to a resident who
4 as a governmental employee was a prisoner of war or
5 missing in action, and in respect of any compensation
6 paid to a resident in 2001 or thereafter by reason of
7 being a member of the Illinois National Guard or,
8 beginning with taxable years ending on or after
9 December 31, 2007, the National Guard of any other
10 state. The provisions of this subparagraph (E) are
11 exempt from the provisions of Section 250;

12 (F) An amount equal to all amounts included in such
13 total pursuant to the provisions of Sections 402(a),
14 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
15 Internal Revenue Code, or included in such total as
16 distributions under the provisions of any retirement
17 or disability plan for employees of any governmental
18 agency or unit, or retirement payments to retired
19 partners, which payments are excluded in computing net
20 earnings from self employment by Section 1402 of the
21 Internal Revenue Code and regulations adopted pursuant
22 thereto;

23 (G) The valuation limitation amount;

24 (H) An amount equal to the amount of any tax
25 imposed by this Act which was refunded to the taxpayer
26 and included in such total for the taxable year;

1 (I) An amount equal to all amounts included in such
2 total pursuant to the provisions of Section 111 of the
3 Internal Revenue Code as a recovery of items previously
4 deducted from adjusted gross income in the computation
5 of taxable income;

6 (J) An amount equal to those dividends included in
7 such total which were paid by a corporation which
8 conducts business operations in a River Edge
9 Redevelopment Zone or zones created under the River
10 Edge Redevelopment Zone Act, and conducts
11 substantially all of its operations in a River Edge
12 Redevelopment Zone or zones. This subparagraph (J) is
13 exempt from the provisions of Section 250;

14 (K) An amount equal to those dividends included in
15 such total that were paid by a corporation that
16 conducts business operations in a federally designated
17 Foreign Trade Zone or Sub-Zone and that is designated a
18 High Impact Business located in Illinois; provided
19 that dividends eligible for the deduction provided in
20 subparagraph (J) of paragraph (2) of this subsection
21 shall not be eligible for the deduction provided under
22 this subparagraph (K);

23 (L) For taxable years ending after December 31,
24 1983, an amount equal to all social security benefits
25 and railroad retirement benefits included in such
26 total pursuant to Sections 72(r) and 86 of the Internal

1 Revenue Code;

2 (M) With the exception of any amounts subtracted
3 under subparagraph (N), an amount equal to the sum of
4 all amounts disallowed as deductions by (i) Sections
5 171(a) (2), and 265(2) of the Internal Revenue Code,
6 and all amounts of expenses allocable to interest and
7 disallowed as deductions by Section 265(1) of the
8 Internal Revenue Code; and (ii) for taxable years
9 ending on or after August 13, 1999, Sections 171(a) (2),
10 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
11 Code, plus, for taxable years ending on or after
12 December 31, 2011, Section 45G(e) (3) of the Internal
13 Revenue Code and, for taxable years ending on or after
14 December 31, 2008, any amount included in gross income
15 under Section 87 of the Internal Revenue Code; the
16 provisions of this subparagraph are exempt from the
17 provisions of Section 250;

18 (N) An amount equal to all amounts included in such
19 total which are exempt from taxation by this State
20 either by reason of its statutes or Constitution or by
21 reason of the Constitution, treaties or statutes of the
22 United States; provided that, in the case of any
23 statute of this State that exempts income derived from
24 bonds or other obligations from the tax imposed under
25 this Act, the amount exempted shall be the interest net
26 of bond premium amortization;

1 (O) An amount equal to any contribution made to a
2 job training project established pursuant to the Tax
3 Increment Allocation Redevelopment Act;

4 (P) An amount equal to the amount of the deduction
5 used to compute the federal income tax credit for
6 restoration of substantial amounts held under claim of
7 right for the taxable year pursuant to Section 1341 of
8 the Internal Revenue Code or of any itemized deduction
9 taken from adjusted gross income in the computation of
10 taxable income for restoration of substantial amounts
11 held under claim of right for the taxable year;

12 (Q) An amount equal to any amounts included in such
13 total, received by the taxpayer as an acceleration in
14 the payment of life, endowment or annuity benefits in
15 advance of the time they would otherwise be payable as
16 an indemnity for a terminal illness;

17 (R) An amount equal to the amount of any federal or
18 State bonus paid to veterans of the Persian Gulf War;

19 (S) An amount, to the extent included in adjusted
20 gross income, equal to the amount of a contribution
21 made in the taxable year on behalf of the taxpayer to a
22 medical care savings account established under the
23 Medical Care Savings Account Act or the Medical Care
24 Savings Account Act of 2000 to the extent the
25 contribution is accepted by the account administrator
26 as provided in that Act;

1 (T) An amount, to the extent included in adjusted
2 gross income, equal to the amount of interest earned in
3 the taxable year on a medical care savings account
4 established under the Medical Care Savings Account Act
5 or the Medical Care Savings Account Act of 2000 on
6 behalf of the taxpayer, other than interest added
7 pursuant to item (D-5) of this paragraph (2);

8 (U) For one taxable year beginning on or after
9 January 1, 1994, an amount equal to the total amount of
10 tax imposed and paid under subsections (a) and (b) of
11 Section 201 of this Act on grant amounts received by
12 the taxpayer under the Nursing Home Grant Assistance
13 Act during the taxpayer's taxable years 1992 and 1993;

14 (V) Beginning with tax years ending on or after
15 December 31, 1995 and ending with tax years ending on
16 or before December 31, 2004, an amount equal to the
17 amount paid by a taxpayer who is a self-employed
18 taxpayer, a partner of a partnership, or a shareholder
19 in a Subchapter S corporation for health insurance or
20 long-term care insurance for that taxpayer or that
21 taxpayer's spouse or dependents, to the extent that the
22 amount paid for that health insurance or long-term care
23 insurance may be deducted under Section 213 of the
24 Internal Revenue Code, has not been deducted on the
25 federal income tax return of the taxpayer, and does not
26 exceed the taxable income attributable to that

1 taxpayer's income, self-employment income, or
2 Subchapter S corporation income; except that no
3 deduction shall be allowed under this item (V) if the
4 taxpayer is eligible to participate in any health
5 insurance or long-term care insurance plan of an
6 employer of the taxpayer or the taxpayer's spouse. The
7 amount of the health insurance and long-term care
8 insurance subtracted under this item (V) shall be
9 determined by multiplying total health insurance and
10 long-term care insurance premiums paid by the taxpayer
11 times a number that represents the fractional
12 percentage of eligible medical expenses under Section
13 213 of the Internal Revenue Code of 1986 not actually
14 deducted on the taxpayer's federal income tax return;

15 (W) For taxable years beginning on or after January
16 1, 1998, all amounts included in the taxpayer's federal
17 gross income in the taxable year from amounts converted
18 from a regular IRA to a Roth IRA. This paragraph is
19 exempt from the provisions of Section 250;

20 (X) For taxable year 1999 and thereafter, an amount
21 equal to the amount of any (i) distributions, to the
22 extent includible in gross income for federal income
23 tax purposes, made to the taxpayer because of his or
24 her status as a victim of persecution for racial or
25 religious reasons by Nazi Germany or any other Axis
26 regime or as an heir of the victim and (ii) items of

1 income, to the extent includible in gross income for
2 federal income tax purposes, attributable to, derived
3 from or in any way related to assets stolen from,
4 hidden from, or otherwise lost to a victim of
5 persecution for racial or religious reasons by Nazi
6 Germany or any other Axis regime immediately prior to,
7 during, and immediately after World War II, including,
8 but not limited to, interest on the proceeds receivable
9 as insurance under policies issued to a victim of
10 persecution for racial or religious reasons by Nazi
11 Germany or any other Axis regime by European insurance
12 companies immediately prior to and during World War II;
13 provided, however, this subtraction from federal
14 adjusted gross income does not apply to assets acquired
15 with such assets or with the proceeds from the sale of
16 such assets; provided, further, this paragraph shall
17 only apply to a taxpayer who was the first recipient of
18 such assets after their recovery and who is a victim of
19 persecution for racial or religious reasons by Nazi
20 Germany or any other Axis regime or as an heir of the
21 victim. The amount of and the eligibility for any
22 public assistance, benefit, or similar entitlement is
23 not affected by the inclusion of items (i) and (ii) of
24 this paragraph in gross income for federal income tax
25 purposes. This paragraph is exempt from the provisions
26 of Section 250;

1 (Y) For taxable years beginning on or after January
2 1, 2002 and ending on or before December 31, 2004,
3 moneys contributed in the taxable year to a College
4 Savings Pool account under Section 16.5 of the State
5 Treasurer Act, except that amounts excluded from gross
6 income under Section 529(c)(3)(C)(i) of the Internal
7 Revenue Code shall not be considered moneys
8 contributed under this subparagraph (Y). For taxable
9 years beginning on or after January 1, 2005, a maximum
10 of \$10,000 contributed in the taxable year to (i) a
11 College Savings Pool account under Section 16.5 of the
12 State Treasurer Act or (ii) the Illinois Prepaid
13 Tuition Trust Fund, except that amounts excluded from
14 gross income under Section 529(c)(3)(C)(i) of the
15 Internal Revenue Code shall not be considered moneys
16 contributed under this subparagraph (Y). For purposes
17 of this subparagraph, contributions made by an
18 employer on behalf of an employee, or matching
19 contributions made by an employee, shall be treated as
20 made by the employee. This subparagraph (Y) is exempt
21 from the provisions of Section 250;

22 (Z) For taxable years 2001 and thereafter, for the
23 taxable year in which the bonus depreciation deduction
24 is taken on the taxpayer's federal income tax return
25 under subsection (k) of Section 168 of the Internal
26 Revenue Code and for each applicable taxable year

1 thereafter, an amount equal to "x", where:

2 (1) "y" equals the amount of the depreciation
3 deduction taken for the taxable year on the
4 taxpayer's federal income tax return on property
5 for which the bonus depreciation deduction was
6 taken in any year under subsection (k) of Section
7 168 of the Internal Revenue Code, but not including
8 the bonus depreciation deduction;

9 (2) for taxable years ending on or before
10 December 31, 2005, "x" equals "y" multiplied by 30
11 and then divided by 70 (or "y" multiplied by
12 0.429); and

13 (3) for taxable years ending after December
14 31, 2005:

15 (i) for property on which a bonus
16 depreciation deduction of 30% of the adjusted
17 basis was taken, "x" equals "y" multiplied by
18 30 and then divided by 70 (or "y" multiplied by
19 0.429); and

20 (ii) for property on which a bonus
21 depreciation deduction of 50% of the adjusted
22 basis was taken, "x" equals "y" multiplied by
23 1.0.

24 The aggregate amount deducted under this
25 subparagraph in all taxable years for any one piece of
26 property may not exceed the amount of the bonus

1 depreciation deduction taken on that property on the
2 taxpayer's federal income tax return under subsection
3 (k) of Section 168 of the Internal Revenue Code. This
4 subparagraph (Z) is exempt from the provisions of
5 Section 250;

6 (AA) If the taxpayer sells, transfers, abandons,
7 or otherwise disposes of property for which the
8 taxpayer was required in any taxable year to make an
9 addition modification under subparagraph (D-15), then
10 an amount equal to that addition modification.

11 If the taxpayer continues to own property through
12 the last day of the last tax year for which the
13 taxpayer may claim a depreciation deduction for
14 federal income tax purposes and for which the taxpayer
15 was required in any taxable year to make an addition
16 modification under subparagraph (D-15), then an amount
17 equal to that addition modification.

18 The taxpayer is allowed to take the deduction under
19 this subparagraph only once with respect to any one
20 piece of property.

21 This subparagraph (AA) is exempt from the
22 provisions of Section 250;

23 (BB) Any amount included in adjusted gross income,
24 other than salary, received by a driver in a
25 ridesharing arrangement using a motor vehicle;

26 (CC) The amount of (i) any interest income (net of

1 the deductions allocable thereto) taken into account
2 for the taxable year with respect to a transaction with
3 a taxpayer that is required to make an addition
4 modification with respect to such transaction under
5 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
6 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
7 the amount of that addition modification, and (ii) any
8 income from intangible property (net of the deductions
9 allocable thereto) taken into account for the taxable
10 year with respect to a transaction with a taxpayer that
11 is required to make an addition modification with
12 respect to such transaction under Section
13 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
14 203(d)(2)(D-8), but not to exceed the amount of that
15 addition modification. This subparagraph (CC) is
16 exempt from the provisions of Section 250;

17 (DD) An amount equal to the interest income taken
18 into account for the taxable year (net of the
19 deductions allocable thereto) with respect to
20 transactions with (i) a foreign person who would be a
21 member of the taxpayer's unitary business group but for
22 the fact that the foreign person's business activity
23 outside the United States is 80% or more of that
24 person's total business activity and (ii) for taxable
25 years ending on or after December 31, 2008, to a person
26 who would be a member of the same unitary business

1 group but for the fact that the person is prohibited
2 under Section 1501(a)(27) from being included in the
3 unitary business group because he or she is ordinarily
4 required to apportion business income under different
5 subsections of Section 304, but not to exceed the
6 addition modification required to be made for the same
7 taxable year under Section 203(a)(2)(D-17) for
8 interest paid, accrued, or incurred, directly or
9 indirectly, to the same person. This subparagraph (DD)
10 is exempt from the provisions of Section 250;

11 (EE) An amount equal to the income from intangible
12 property taken into account for the taxable year (net
13 of the deductions allocable thereto) with respect to
14 transactions with (i) a foreign person who would be a
15 member of the taxpayer's unitary business group but for
16 the fact that the foreign person's business activity
17 outside the United States is 80% or more of that
18 person's total business activity and (ii) for taxable
19 years ending on or after December 31, 2008, to a person
20 who would be a member of the same unitary business
21 group but for the fact that the person is prohibited
22 under Section 1501(a)(27) from being included in the
23 unitary business group because he or she is ordinarily
24 required to apportion business income under different
25 subsections of Section 304, but not to exceed the
26 addition modification required to be made for the same

1 taxable year under Section 203(a)(2)(D-18) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person. This subparagraph (EE) is exempt from the
5 provisions of Section 250;

6 (FF) An amount equal to any amount awarded to the
7 taxpayer during the taxable year by the Court of Claims
8 under subsection (c) of Section 8 of the Court of
9 Claims Act for time unjustly served in a State prison.
10 This subparagraph (FF) is exempt from the provisions of
11 Section 250; and

12 (GG) For taxable years ending on or after December
13 31, 2011, in the case of a taxpayer who was required to
14 add back any insurance premiums under Section
15 203(a)(2)(D-19), such taxpayer may elect to subtract
16 that part of a reimbursement received from the
17 insurance company equal to the amount of the expense or
18 loss (including expenses incurred by the insurance
19 company) that would have been taken into account as a
20 deduction for federal income tax purposes if the
21 expense or loss had been uninsured. If a taxpayer makes
22 the election provided for by this subparagraph (GG),
23 the insurer to which the premiums were paid must add
24 back to income the amount subtracted by the taxpayer
25 pursuant to this subparagraph (GG). This subparagraph
26 (GG) is exempt from the provisions of Section 250; and

1 -
2 (HH) For taxable years beginning on or after
3 January 1, 2016, an amount equal to any amount
4 contributed by the taxpayer to a qualified ABLE account
5 under Article 15 of the Department of Human Service Act
6 of the Civil Administrative Code of Illinois, to the
7 extent those amounts are not excluded when calculating
8 the taxpayer's federal adjusted gross income. This
9 subparagraph (HH) is exempt from the provisions of
10 Section 250.

11 (b) Corporations.

12 (1) In general. In the case of a corporation, base
13 income means an amount equal to the taxpayer's taxable
14 income for the taxable year as modified by paragraph (2).

15 (2) Modifications. The taxable income referred to in
16 paragraph (1) shall be modified by adding thereto the sum
17 of the following amounts:

18 (A) An amount equal to all amounts paid or accrued
19 to the taxpayer as interest and all distributions
20 received from regulated investment companies during
21 the taxable year to the extent excluded from gross
22 income in the computation of taxable income;

23 (B) An amount equal to the amount of tax imposed by
24 this Act to the extent deducted from gross income in
25 the computation of taxable income for the taxable year;

1 (C) In the case of a regulated investment company,
2 an amount equal to the excess of (i) the net long-term
3 capital gain for the taxable year, over (ii) the amount
4 of the capital gain dividends designated as such in
5 accordance with Section 852(b)(3)(C) of the Internal
6 Revenue Code and any amount designated under Section
7 852(b)(3)(D) of the Internal Revenue Code,
8 attributable to the taxable year (this amendatory Act
9 of 1995 (Public Act 89-89) is declarative of existing
10 law and is not a new enactment);

11 (D) The amount of any net operating loss deduction
12 taken in arriving at taxable income, other than a net
13 operating loss carried forward from a taxable year
14 ending prior to December 31, 1986;

15 (E) For taxable years in which a net operating loss
16 carryback or carryforward from a taxable year ending
17 prior to December 31, 1986 is an element of taxable
18 income under paragraph (1) of subsection (e) or
19 subparagraph (E) of paragraph (2) of subsection (e),
20 the amount by which addition modifications other than
21 those provided by this subparagraph (E) exceeded
22 subtraction modifications in such earlier taxable
23 year, with the following limitations applied in the
24 order that they are listed:

25 (i) the addition modification relating to the
26 net operating loss carried back or forward to the

1 taxable year from any taxable year ending prior to
2 December 31, 1986 shall be reduced by the amount of
3 addition modification under this subparagraph (E)
4 which related to that net operating loss and which
5 was taken into account in calculating the base
6 income of an earlier taxable year, and

7 (ii) the addition modification relating to the
8 net operating loss carried back or forward to the
9 taxable year from any taxable year ending prior to
10 December 31, 1986 shall not exceed the amount of
11 such carryback or carryforward;

12 For taxable years in which there is a net operating
13 loss carryback or carryforward from more than one other
14 taxable year ending prior to December 31, 1986, the
15 addition modification provided in this subparagraph
16 (E) shall be the sum of the amounts computed
17 independently under the preceding provisions of this
18 subparagraph (E) for each such taxable year;

19 (E-5) For taxable years ending after December 31,
20 1997, an amount equal to any eligible remediation costs
21 that the corporation deducted in computing adjusted
22 gross income and for which the corporation claims a
23 credit under subsection (l) of Section 201;

24 (E-10) For taxable years 2001 and thereafter, an
25 amount equal to the bonus depreciation deduction taken
26 on the taxpayer's federal income tax return for the

1 taxable year under subsection (k) of Section 168 of the
2 Internal Revenue Code;

3 (E-11) If the taxpayer sells, transfers, abandons,
4 or otherwise disposes of property for which the
5 taxpayer was required in any taxable year to make an
6 addition modification under subparagraph (E-10), then
7 an amount equal to the aggregate amount of the
8 deductions taken in all taxable years under
9 subparagraph (T) with respect to that property.

10 If the taxpayer continues to own property through
11 the last day of the last tax year for which the
12 taxpayer may claim a depreciation deduction for
13 federal income tax purposes and for which the taxpayer
14 was allowed in any taxable year to make a subtraction
15 modification under subparagraph (T), then an amount
16 equal to that subtraction modification.

17 The taxpayer is required to make the addition
18 modification under this subparagraph only once with
19 respect to any one piece of property;

20 (E-12) An amount equal to the amount otherwise
21 allowed as a deduction in computing base income for
22 interest paid, accrued, or incurred, directly or
23 indirectly, (i) for taxable years ending on or after
24 December 31, 2004, to a foreign person who would be a
25 member of the same unitary business group but for the
26 fact the foreign person's business activity outside

1 the United States is 80% or more of the foreign
2 person's total business activity and (ii) for taxable
3 years ending on or after December 31, 2008, to a person
4 who would be a member of the same unitary business
5 group but for the fact that the person is prohibited
6 under Section 1501(a)(27) from being included in the
7 unitary business group because he or she is ordinarily
8 required to apportion business income under different
9 subsections of Section 304. The addition modification
10 required by this subparagraph shall be reduced to the
11 extent that dividends were included in base income of
12 the unitary group for the same taxable year and
13 received by the taxpayer or by a member of the
14 taxpayer's unitary business group (including amounts
15 included in gross income pursuant to Sections 951
16 through 964 of the Internal Revenue Code and amounts
17 included in gross income under Section 78 of the
18 Internal Revenue Code) with respect to the stock of the
19 same person to whom the interest was paid, accrued, or
20 incurred.

21 This paragraph shall not apply to the following:

22 (i) an item of interest paid, accrued, or
23 incurred, directly or indirectly, to a person who
24 is subject in a foreign country or state, other
25 than a state which requires mandatory unitary
26 reporting, to a tax on or measured by net income

1 with respect to such interest; or

2 (ii) an item of interest paid, accrued, or
3 incurred, directly or indirectly, to a person if
4 the taxpayer can establish, based on a
5 preponderance of the evidence, both of the
6 following:

7 (a) the person, during the same taxable
8 year, paid, accrued, or incurred, the interest
9 to a person that is not a related member, and

10 (b) the transaction giving rise to the
11 interest expense between the taxpayer and the
12 person did not have as a principal purpose the
13 avoidance of Illinois income tax, and is paid
14 pursuant to a contract or agreement that
15 reflects an arm's-length interest rate and
16 terms; or

17 (iii) the taxpayer can establish, based on
18 clear and convincing evidence, that the interest
19 paid, accrued, or incurred relates to a contract or
20 agreement entered into at arm's-length rates and
21 terms and the principal purpose for the payment is
22 not federal or Illinois tax avoidance; or

23 (iv) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a person if
25 the taxpayer establishes by clear and convincing
26 evidence that the adjustments are unreasonable; or

1 if the taxpayer and the Director agree in writing
2 to the application or use of an alternative method
3 of apportionment under Section 304(f).

4 Nothing in this subsection shall preclude the
5 Director from making any other adjustment
6 otherwise allowed under Section 404 of this Act for
7 any tax year beginning after the effective date of
8 this amendment provided such adjustment is made
9 pursuant to regulation adopted by the Department
10 and such regulations provide methods and standards
11 by which the Department will utilize its authority
12 under Section 404 of this Act;

13 (E-13) An amount equal to the amount of intangible
14 expenses and costs otherwise allowed as a deduction in
15 computing base income, and that were paid, accrued, or
16 incurred, directly or indirectly, (i) for taxable
17 years ending on or after December 31, 2004, to a
18 foreign person who would be a member of the same
19 unitary business group but for the fact that the
20 foreign person's business activity outside the United
21 States is 80% or more of that person's total business
22 activity and (ii) for taxable years ending on or after
23 December 31, 2008, to a person who would be a member of
24 the same unitary business group but for the fact that
25 the person is prohibited under Section 1501(a)(27)
26 from being included in the unitary business group

1 because he or she is ordinarily required to apportion
2 business income under different subsections of Section
3 304. The addition modification required by this
4 subparagraph shall be reduced to the extent that
5 dividends were included in base income of the unitary
6 group for the same taxable year and received by the
7 taxpayer or by a member of the taxpayer's unitary
8 business group (including amounts included in gross
9 income pursuant to Sections 951 through 964 of the
10 Internal Revenue Code and amounts included in gross
11 income under Section 78 of the Internal Revenue Code)
12 with respect to the stock of the same person to whom
13 the intangible expenses and costs were directly or
14 indirectly paid, incurred, or accrued. The preceding
15 sentence shall not apply to the extent that the same
16 dividends caused a reduction to the addition
17 modification required under Section 203(b)(2)(E-12) of
18 this Act. As used in this subparagraph, the term
19 "intangible expenses and costs" includes (1) expenses,
20 losses, and costs for, or related to, the direct or
21 indirect acquisition, use, maintenance or management,
22 ownership, sale, exchange, or any other disposition of
23 intangible property; (2) losses incurred, directly or
24 indirectly, from factoring transactions or discounting
25 transactions; (3) royalty, patent, technical, and
26 copyright fees; (4) licensing fees; and (5) other

1 similar expenses and costs. For purposes of this
2 subparagraph, "intangible property" includes patents,
3 patent applications, trade names, trademarks, service
4 marks, copyrights, mask works, trade secrets, and
5 similar types of intangible assets.

6 This paragraph shall not apply to the following:

7 (i) any item of intangible expenses or costs
8 paid, accrued, or incurred, directly or
9 indirectly, from a transaction with a person who is
10 subject in a foreign country or state, other than a
11 state which requires mandatory unitary reporting,
12 to a tax on or measured by net income with respect
13 to such item; or

14 (ii) any item of intangible expense or cost
15 paid, accrued, or incurred, directly or
16 indirectly, if the taxpayer can establish, based
17 on a preponderance of the evidence, both of the
18 following:

19 (a) the person during the same taxable
20 year paid, accrued, or incurred, the
21 intangible expense or cost to a person that is
22 not a related member, and

23 (b) the transaction giving rise to the
24 intangible expense or cost between the
25 taxpayer and the person did not have as a
26 principal purpose the avoidance of Illinois

1 income tax, and is paid pursuant to a contract
2 or agreement that reflects arm's-length terms;
3 or

4 (iii) any item of intangible expense or cost
5 paid, accrued, or incurred, directly or
6 indirectly, from a transaction with a person if the
7 taxpayer establishes by clear and convincing
8 evidence, that the adjustments are unreasonable;
9 or if the taxpayer and the Director agree in
10 writing to the application or use of an alternative
11 method of apportionment under Section 304(f);

12 Nothing in this subsection shall preclude the
13 Director from making any other adjustment
14 otherwise allowed under Section 404 of this Act for
15 any tax year beginning after the effective date of
16 this amendment provided such adjustment is made
17 pursuant to regulation adopted by the Department
18 and such regulations provide methods and standards
19 by which the Department will utilize its authority
20 under Section 404 of this Act;

21 (E-14) For taxable years ending on or after
22 December 31, 2008, an amount equal to the amount of
23 insurance premium expenses and costs otherwise allowed
24 as a deduction in computing base income, and that were
25 paid, accrued, or incurred, directly or indirectly, to
26 a person who would be a member of the same unitary

1 business group but for the fact that the person is
2 prohibited under Section 1501(a)(27) from being
3 included in the unitary business group because he or
4 she is ordinarily required to apportion business
5 income under different subsections of Section 304. The
6 addition modification required by this subparagraph
7 shall be reduced to the extent that dividends were
8 included in base income of the unitary group for the
9 same taxable year and received by the taxpayer or by a
10 member of the taxpayer's unitary business group
11 (including amounts included in gross income under
12 Sections 951 through 964 of the Internal Revenue Code
13 and amounts included in gross income under Section 78
14 of the Internal Revenue Code) with respect to the stock
15 of the same person to whom the premiums and costs were
16 directly or indirectly paid, incurred, or accrued. The
17 preceding sentence does not apply to the extent that
18 the same dividends caused a reduction to the addition
19 modification required under Section 203(b)(2)(E-12) or
20 Section 203(b)(2)(E-13) of this Act;

21 (E-15) For taxable years beginning after December
22 31, 2008, any deduction for dividends paid by a captive
23 real estate investment trust that is allowed to a real
24 estate investment trust under Section 857(b)(2)(B) of
25 the Internal Revenue Code for dividends paid;

26 (E-16) An amount equal to the credit allowable to

1 the taxpayer under Section 218(a) of this Act,
2 determined without regard to Section 218(c) of this
3 Act;

4 and by deducting from the total so obtained the sum of the
5 following amounts:

6 (F) An amount equal to the amount of any tax
7 imposed by this Act which was refunded to the taxpayer
8 and included in such total for the taxable year;

9 (G) An amount equal to any amount included in such
10 total under Section 78 of the Internal Revenue Code;

11 (H) In the case of a regulated investment company,
12 an amount equal to the amount of exempt interest
13 dividends as defined in subsection (b) (5) of Section
14 852 of the Internal Revenue Code, paid to shareholders
15 for the taxable year;

16 (I) With the exception of any amounts subtracted
17 under subparagraph (J), an amount equal to the sum of
18 all amounts disallowed as deductions by (i) Sections
19 171(a) (2), and 265(a) (2) and amounts disallowed as
20 interest expense by Section 291(a) (3) of the Internal
21 Revenue Code, and all amounts of expenses allocable to
22 interest and disallowed as deductions by Section
23 265(a) (1) of the Internal Revenue Code; and (ii) for
24 taxable years ending on or after August 13, 1999,
25 Sections 171(a) (2), 265, 280C, 291(a) (3), and
26 832(b) (5) (B) (i) of the Internal Revenue Code, plus,

1 for tax years ending on or after December 31, 2011,
2 amounts disallowed as deductions by Section 45G(e)(3)
3 of the Internal Revenue Code and, for taxable years
4 ending on or after December 31, 2008, any amount
5 included in gross income under Section 87 of the
6 Internal Revenue Code and the policyholders' share of
7 tax-exempt interest of a life insurance company under
8 Section 807(a)(2)(B) of the Internal Revenue Code (in
9 the case of a life insurance company with gross income
10 from a decrease in reserves for the tax year) or
11 Section 807(b)(1)(B) of the Internal Revenue Code (in
12 the case of a life insurance company allowed a
13 deduction for an increase in reserves for the tax
14 year); the provisions of this subparagraph are exempt
15 from the provisions of Section 250;

16 (J) An amount equal to all amounts included in such
17 total which are exempt from taxation by this State
18 either by reason of its statutes or Constitution or by
19 reason of the Constitution, treaties or statutes of the
20 United States; provided that, in the case of any
21 statute of this State that exempts income derived from
22 bonds or other obligations from the tax imposed under
23 this Act, the amount exempted shall be the interest net
24 of bond premium amortization;

25 (K) An amount equal to those dividends included in
26 such total which were paid by a corporation which

1 conducts business operations in a River Edge
2 Redevelopment Zone or zones created under the River
3 Edge Redevelopment Zone Act and conducts substantially
4 all of its operations in a River Edge Redevelopment
5 Zone or zones. This subparagraph (K) is exempt from the
6 provisions of Section 250;

7 (L) An amount equal to those dividends included in
8 such total that were paid by a corporation that
9 conducts business operations in a federally designated
10 Foreign Trade Zone or Sub-Zone and that is designated a
11 High Impact Business located in Illinois; provided
12 that dividends eligible for the deduction provided in
13 subparagraph (K) of paragraph 2 of this subsection
14 shall not be eligible for the deduction provided under
15 this subparagraph (L);

16 (M) For any taxpayer that is a financial
17 organization within the meaning of Section 304(c) of
18 this Act, an amount included in such total as interest
19 income from a loan or loans made by such taxpayer to a
20 borrower, to the extent that such a loan is secured by
21 property which is eligible for the River Edge
22 Redevelopment Zone Investment Credit. To determine the
23 portion of a loan or loans that is secured by property
24 eligible for a Section 201(f) investment credit to the
25 borrower, the entire principal amount of the loan or
26 loans between the taxpayer and the borrower should be

1 divided into the basis of the Section 201(f) investment
2 credit property which secures the loan or loans, using
3 for this purpose the original basis of such property on
4 the date that it was placed in service in the River
5 Edge Redevelopment Zone. The subtraction modification
6 available to taxpayer in any year under this subsection
7 shall be that portion of the total interest paid by the
8 borrower with respect to such loan attributable to the
9 eligible property as calculated under the previous
10 sentence. This subparagraph (M) is exempt from the
11 provisions of Section 250;

12 (M-1) For any taxpayer that is a financial
13 organization within the meaning of Section 304(c) of
14 this Act, an amount included in such total as interest
15 income from a loan or loans made by such taxpayer to a
16 borrower, to the extent that such a loan is secured by
17 property which is eligible for the High Impact Business
18 Investment Credit. To determine the portion of a loan
19 or loans that is secured by property eligible for a
20 Section 201(h) investment credit to the borrower, the
21 entire principal amount of the loan or loans between
22 the taxpayer and the borrower should be divided into
23 the basis of the Section 201(h) investment credit
24 property which secures the loan or loans, using for
25 this purpose the original basis of such property on the
26 date that it was placed in service in a federally

1 designated Foreign Trade Zone or Sub-Zone located in
2 Illinois. No taxpayer that is eligible for the
3 deduction provided in subparagraph (M) of paragraph
4 (2) of this subsection shall be eligible for the
5 deduction provided under this subparagraph (M-1). The
6 subtraction modification available to taxpayers in any
7 year under this subsection shall be that portion of the
8 total interest paid by the borrower with respect to
9 such loan attributable to the eligible property as
10 calculated under the previous sentence;

11 (N) Two times any contribution made during the
12 taxable year to a designated zone organization to the
13 extent that the contribution (i) qualifies as a
14 charitable contribution under subsection (c) of
15 Section 170 of the Internal Revenue Code and (ii) must,
16 by its terms, be used for a project approved by the
17 Department of Commerce and Economic Opportunity under
18 Section 11 of the Illinois Enterprise Zone Act or under
19 Section 10-10 of the River Edge Redevelopment Zone Act.
20 This subparagraph (N) is exempt from the provisions of
21 Section 250;

22 (O) An amount equal to: (i) 85% for taxable years
23 ending on or before December 31, 1992, or, a percentage
24 equal to the percentage allowable under Section
25 243(a)(1) of the Internal Revenue Code of 1986 for
26 taxable years ending after December 31, 1992, of the

1 amount by which dividends included in taxable income
2 and received from a corporation that is not created or
3 organized under the laws of the United States or any
4 state or political subdivision thereof, including, for
5 taxable years ending on or after December 31, 1988,
6 dividends received or deemed received or paid or deemed
7 paid under Sections 951 through 965 of the Internal
8 Revenue Code, exceed the amount of the modification
9 provided under subparagraph (G) of paragraph (2) of
10 this subsection (b) which is related to such dividends,
11 and including, for taxable years ending on or after
12 December 31, 2008, dividends received from a captive
13 real estate investment trust; plus (ii) 100% of the
14 amount by which dividends, included in taxable income
15 and received, including, for taxable years ending on or
16 after December 31, 1988, dividends received or deemed
17 received or paid or deemed paid under Sections 951
18 through 964 of the Internal Revenue Code and including,
19 for taxable years ending on or after December 31, 2008,
20 dividends received from a captive real estate
21 investment trust, from any such corporation specified
22 in clause (i) that would but for the provisions of
23 Section 1504 (b) (3) of the Internal Revenue Code be
24 treated as a member of the affiliated group which
25 includes the dividend recipient, exceed the amount of
26 the modification provided under subparagraph (G) of

1 paragraph (2) of this subsection (b) which is related
2 to such dividends. This subparagraph (O) is exempt from
3 the provisions of Section 250 of this Act;

4 (P) An amount equal to any contribution made to a
5 job training project established pursuant to the Tax
6 Increment Allocation Redevelopment Act;

7 (Q) An amount equal to the amount of the deduction
8 used to compute the federal income tax credit for
9 restoration of substantial amounts held under claim of
10 right for the taxable year pursuant to Section 1341 of
11 the Internal Revenue Code;

12 (R) On and after July 20, 1999, in the case of an
13 attorney-in-fact with respect to whom an interinsurer
14 or a reciprocal insurer has made the election under
15 Section 835 of the Internal Revenue Code, 26 U.S.C.
16 835, an amount equal to the excess, if any, of the
17 amounts paid or incurred by that interinsurer or
18 reciprocal insurer in the taxable year to the
19 attorney-in-fact over the deduction allowed to that
20 interinsurer or reciprocal insurer with respect to the
21 attorney-in-fact under Section 835(b) of the Internal
22 Revenue Code for the taxable year; the provisions of
23 this subparagraph are exempt from the provisions of
24 Section 250;

25 (S) For taxable years ending on or after December
26 31, 1997, in the case of a Subchapter S corporation, an

1 amount equal to all amounts of income allocable to a
2 shareholder subject to the Personal Property Tax
3 Replacement Income Tax imposed by subsections (c) and
4 (d) of Section 201 of this Act, including amounts
5 allocable to organizations exempt from federal income
6 tax by reason of Section 501(a) of the Internal Revenue
7 Code. This subparagraph (S) is exempt from the
8 provisions of Section 250;

9 (T) For taxable years 2001 and thereafter, for the
10 taxable year in which the bonus depreciation deduction
11 is taken on the taxpayer's federal income tax return
12 under subsection (k) of Section 168 of the Internal
13 Revenue Code and for each applicable taxable year
14 thereafter, an amount equal to "x", where:

15 (1) "y" equals the amount of the depreciation
16 deduction taken for the taxable year on the
17 taxpayer's federal income tax return on property
18 for which the bonus depreciation deduction was
19 taken in any year under subsection (k) of Section
20 168 of the Internal Revenue Code, but not including
21 the bonus depreciation deduction;

22 (2) for taxable years ending on or before
23 December 31, 2005, "x" equals "y" multiplied by 30
24 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (3) for taxable years ending after December

1 31, 2005:

2 (i) for property on which a bonus
3 depreciation deduction of 30% of the adjusted
4 basis was taken, "x" equals "y" multiplied by
5 30 and then divided by 70 (or "y" multiplied by
6 0.429); and

7 (ii) for property on which a bonus
8 depreciation deduction of 50% of the adjusted
9 basis was taken, "x" equals "y" multiplied by
10 1.0.

11 The aggregate amount deducted under this
12 subparagraph in all taxable years for any one piece of
13 property may not exceed the amount of the bonus
14 depreciation deduction taken on that property on the
15 taxpayer's federal income tax return under subsection
16 (k) of Section 168 of the Internal Revenue Code. This
17 subparagraph (T) is exempt from the provisions of
18 Section 250;

19 (U) If the taxpayer sells, transfers, abandons, or
20 otherwise disposes of property for which the taxpayer
21 was required in any taxable year to make an addition
22 modification under subparagraph (E-10), then an amount
23 equal to that addition modification.

24 If the taxpayer continues to own property through
25 the last day of the last tax year for which the
26 taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer
2 was required in any taxable year to make an addition
3 modification under subparagraph (E-10), then an amount
4 equal to that addition modification.

5 The taxpayer is allowed to take the deduction under
6 this subparagraph only once with respect to any one
7 piece of property.

8 This subparagraph (U) is exempt from the
9 provisions of Section 250;

10 (V) The amount of: (i) any interest income (net of
11 the deductions allocable thereto) taken into account
12 for the taxable year with respect to a transaction with
13 a taxpayer that is required to make an addition
14 modification with respect to such transaction under
15 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
16 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
17 the amount of such addition modification, (ii) any
18 income from intangible property (net of the deductions
19 allocable thereto) taken into account for the taxable
20 year with respect to a transaction with a taxpayer that
21 is required to make an addition modification with
22 respect to such transaction under Section
23 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
24 203(d)(2)(D-8), but not to exceed the amount of such
25 addition modification, and (iii) any insurance premium
26 income (net of deductions allocable thereto) taken

1 into account for the taxable year with respect to a
2 transaction with a taxpayer that is required to make an
3 addition modification with respect to such transaction
4 under Section 203(a)(2)(D-19), Section
5 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
6 203(d)(2)(D-9), but not to exceed the amount of that
7 addition modification. This subparagraph (V) is exempt
8 from the provisions of Section 250;

9 (W) An amount equal to the interest income taken
10 into account for the taxable year (net of the
11 deductions allocable thereto) with respect to
12 transactions with (i) a foreign person who would be a
13 member of the taxpayer's unitary business group but for
14 the fact that the foreign person's business activity
15 outside the United States is 80% or more of that
16 person's total business activity and (ii) for taxable
17 years ending on or after December 31, 2008, to a person
18 who would be a member of the same unitary business
19 group but for the fact that the person is prohibited
20 under Section 1501(a)(27) from being included in the
21 unitary business group because he or she is ordinarily
22 required to apportion business income under different
23 subsections of Section 304, but not to exceed the
24 addition modification required to be made for the same
25 taxable year under Section 203(b)(2)(E-12) for
26 interest paid, accrued, or incurred, directly or

1 indirectly, to the same person. This subparagraph (W)
2 is exempt from the provisions of Section 250;

3 (X) An amount equal to the income from intangible
4 property taken into account for the taxable year (net
5 of the deductions allocable thereto) with respect to
6 transactions with (i) a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity and (ii) for taxable
11 years ending on or after December 31, 2008, to a person
12 who would be a member of the same unitary business
13 group but for the fact that the person is prohibited
14 under Section 1501(a)(27) from being included in the
15 unitary business group because he or she is ordinarily
16 required to apportion business income under different
17 subsections of Section 304, but not to exceed the
18 addition modification required to be made for the same
19 taxable year under Section 203(b)(2)(E-13) for
20 intangible expenses and costs paid, accrued, or
21 incurred, directly or indirectly, to the same foreign
22 person. This subparagraph (X) is exempt from the
23 provisions of Section 250;

24 (Y) For taxable years ending on or after December
25 31, 2011, in the case of a taxpayer who was required to
26 add back any insurance premiums under Section

1 203(b) (2) (E-14), such taxpayer may elect to subtract
2 that part of a reimbursement received from the
3 insurance company equal to the amount of the expense or
4 loss (including expenses incurred by the insurance
5 company) that would have been taken into account as a
6 deduction for federal income tax purposes if the
7 expense or loss had been uninsured. If a taxpayer makes
8 the election provided for by this subparagraph (Y), the
9 insurer to which the premiums were paid must add back
10 to income the amount subtracted by the taxpayer
11 pursuant to this subparagraph (Y). This subparagraph
12 (Y) is exempt from the provisions of Section 250; and

13 (Z) The difference between the nondeductible
14 controlled foreign corporation dividends under Section
15 965(e) (3) of the Internal Revenue Code over the taxable
16 income of the taxpayer, computed without regard to
17 Section 965(e) (2) (A) of the Internal Revenue Code, and
18 without regard to any net operating loss deduction.
19 This subparagraph (Z) is exempt from the provisions of
20 Section 250.

21 (3) Special rule. For purposes of paragraph (2) (A),
22 "gross income" in the case of a life insurance company, for
23 tax years ending on and after December 31, 1994, and prior
24 to December 31, 2011, shall mean the gross investment
25 income for the taxable year and, for tax years ending on or
26 after December 31, 2011, shall mean all amounts included in

1 life insurance gross income under Section 803(a)(3) of the
2 Internal Revenue Code.

3 (c) Trusts and estates.

4 (1) In general. In the case of a trust or estate, base
5 income means an amount equal to the taxpayer's taxable
6 income for the taxable year as modified by paragraph (2).

7 (2) Modifications. Subject to the provisions of
8 paragraph (3), the taxable income referred to in paragraph
9 (1) shall be modified by adding thereto the sum of the
10 following amounts:

11 (A) An amount equal to all amounts paid or accrued
12 to the taxpayer as interest or dividends during the
13 taxable year to the extent excluded from gross income
14 in the computation of taxable income;

15 (B) In the case of (i) an estate, \$600; (ii) a
16 trust which, under its governing instrument, is
17 required to distribute all of its income currently,
18 \$300; and (iii) any other trust, \$100, but in each such
19 case, only to the extent such amount was deducted in
20 the computation of taxable income;

21 (C) An amount equal to the amount of tax imposed by
22 this Act to the extent deducted from gross income in
23 the computation of taxable income for the taxable year;

24 (D) The amount of any net operating loss deduction
25 taken in arriving at taxable income, other than a net

1 operating loss carried forward from a taxable year
2 ending prior to December 31, 1986;

3 (E) For taxable years in which a net operating loss
4 carryback or carryforward from a taxable year ending
5 prior to December 31, 1986 is an element of taxable
6 income under paragraph (1) of subsection (e) or
7 subparagraph (E) of paragraph (2) of subsection (e),
8 the amount by which addition modifications other than
9 those provided by this subparagraph (E) exceeded
10 subtraction modifications in such taxable year, with
11 the following limitations applied in the order that
12 they are listed:

13 (i) the addition modification relating to the
14 net operating loss carried back or forward to the
15 taxable year from any taxable year ending prior to
16 December 31, 1986 shall be reduced by the amount of
17 addition modification under this subparagraph (E)
18 which related to that net operating loss and which
19 was taken into account in calculating the base
20 income of an earlier taxable year, and

21 (ii) the addition modification relating to the
22 net operating loss carried back or forward to the
23 taxable year from any taxable year ending prior to
24 December 31, 1986 shall not exceed the amount of
25 such carryback or carryforward;

26 For taxable years in which there is a net operating

1 loss carryback or carryforward from more than one other
2 taxable year ending prior to December 31, 1986, the
3 addition modification provided in this subparagraph
4 (E) shall be the sum of the amounts computed
5 independently under the preceding provisions of this
6 subparagraph (E) for each such taxable year;

7 (F) For taxable years ending on or after January 1,
8 1989, an amount equal to the tax deducted pursuant to
9 Section 164 of the Internal Revenue Code if the trust
10 or estate is claiming the same tax for purposes of the
11 Illinois foreign tax credit under Section 601 of this
12 Act;

13 (G) An amount equal to the amount of the capital
14 gain deduction allowable under the Internal Revenue
15 Code, to the extent deducted from gross income in the
16 computation of taxable income;

17 (G-5) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the trust or estate deducted in computing adjusted
20 gross income and for which the trust or estate claims a
21 credit under subsection (l) of Section 201;

22 (G-10) For taxable years 2001 and thereafter, an
23 amount equal to the bonus depreciation deduction taken
24 on the taxpayer's federal income tax return for the
25 taxable year under subsection (k) of Section 168 of the
26 Internal Revenue Code; and

1 (G-11) If the taxpayer sells, transfers, abandons,
2 or otherwise disposes of property for which the
3 taxpayer was required in any taxable year to make an
4 addition modification under subparagraph (G-10), then
5 an amount equal to the aggregate amount of the
6 deductions taken in all taxable years under
7 subparagraph (R) with respect to that property.

8 If the taxpayer continues to own property through
9 the last day of the last tax year for which the
10 taxpayer may claim a depreciation deduction for
11 federal income tax purposes and for which the taxpayer
12 was allowed in any taxable year to make a subtraction
13 modification under subparagraph (R), then an amount
14 equal to that subtraction modification.

15 The taxpayer is required to make the addition
16 modification under this subparagraph only once with
17 respect to any one piece of property;

18 (G-12) An amount equal to the amount otherwise
19 allowed as a deduction in computing base income for
20 interest paid, accrued, or incurred, directly or
21 indirectly, (i) for taxable years ending on or after
22 December 31, 2004, to a foreign person who would be a
23 member of the same unitary business group but for the
24 fact that the foreign person's business activity
25 outside the United States is 80% or more of the foreign
26 person's total business activity and (ii) for taxable

1 years ending on or after December 31, 2008, to a person
2 who would be a member of the same unitary business
3 group but for the fact that the person is prohibited
4 under Section 1501(a)(27) from being included in the
5 unitary business group because he or she is ordinarily
6 required to apportion business income under different
7 subsections of Section 304. The addition modification
8 required by this subparagraph shall be reduced to the
9 extent that dividends were included in base income of
10 the unitary group for the same taxable year and
11 received by the taxpayer or by a member of the
12 taxpayer's unitary business group (including amounts
13 included in gross income pursuant to Sections 951
14 through 964 of the Internal Revenue Code and amounts
15 included in gross income under Section 78 of the
16 Internal Revenue Code) with respect to the stock of the
17 same person to whom the interest was paid, accrued, or
18 incurred.

19 This paragraph shall not apply to the following:

20 (i) an item of interest paid, accrued, or
21 incurred, directly or indirectly, to a person who
22 is subject in a foreign country or state, other
23 than a state which requires mandatory unitary
24 reporting, to a tax on or measured by net income
25 with respect to such interest; or

26 (ii) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a person if
2 the taxpayer can establish, based on a
3 preponderance of the evidence, both of the
4 following:

5 (a) the person, during the same taxable
6 year, paid, accrued, or incurred, the interest
7 to a person that is not a related member, and

8 (b) the transaction giving rise to the
9 interest expense between the taxpayer and the
10 person did not have as a principal purpose the
11 avoidance of Illinois income tax, and is paid
12 pursuant to a contract or agreement that
13 reflects an arm's-length interest rate and
14 terms; or

15 (iii) the taxpayer can establish, based on
16 clear and convincing evidence, that the interest
17 paid, accrued, or incurred relates to a contract or
18 agreement entered into at arm's-length rates and
19 terms and the principal purpose for the payment is
20 not federal or Illinois tax avoidance; or

21 (iv) an item of interest paid, accrued, or
22 incurred, directly or indirectly, to a person if
23 the taxpayer establishes by clear and convincing
24 evidence that the adjustments are unreasonable; or
25 if the taxpayer and the Director agree in writing
26 to the application or use of an alternative method

1 of apportionment under Section 304(f).

2 Nothing in this subsection shall preclude the
3 Director from making any other adjustment
4 otherwise allowed under Section 404 of this Act for
5 any tax year beginning after the effective date of
6 this amendment provided such adjustment is made
7 pursuant to regulation adopted by the Department
8 and such regulations provide methods and standards
9 by which the Department will utilize its authority
10 under Section 404 of this Act;

11 (G-13) An amount equal to the amount of intangible
12 expenses and costs otherwise allowed as a deduction in
13 computing base income, and that were paid, accrued, or
14 incurred, directly or indirectly, (i) for taxable
15 years ending on or after December 31, 2004, to a
16 foreign person who would be a member of the same
17 unitary business group but for the fact that the
18 foreign person's business activity outside the United
19 States is 80% or more of that person's total business
20 activity and (ii) for taxable years ending on or after
21 December 31, 2008, to a person who would be a member of
22 the same unitary business group but for the fact that
23 the person is prohibited under Section 1501(a)(27)
24 from being included in the unitary business group
25 because he or she is ordinarily required to apportion
26 business income under different subsections of Section

1 304. The addition modification required by this
2 subparagraph shall be reduced to the extent that
3 dividends were included in base income of the unitary
4 group for the same taxable year and received by the
5 taxpayer or by a member of the taxpayer's unitary
6 business group (including amounts included in gross
7 income pursuant to Sections 951 through 964 of the
8 Internal Revenue Code and amounts included in gross
9 income under Section 78 of the Internal Revenue Code)
10 with respect to the stock of the same person to whom
11 the intangible expenses and costs were directly or
12 indirectly paid, incurred, or accrued. The preceding
13 sentence shall not apply to the extent that the same
14 dividends caused a reduction to the addition
15 modification required under Section 203(c)(2)(G-12) of
16 this Act. As used in this subparagraph, the term
17 "intangible expenses and costs" includes: (1)
18 expenses, losses, and costs for or related to the
19 direct or indirect acquisition, use, maintenance or
20 management, ownership, sale, exchange, or any other
21 disposition of intangible property; (2) losses
22 incurred, directly or indirectly, from factoring
23 transactions or discounting transactions; (3) royalty,
24 patent, technical, and copyright fees; (4) licensing
25 fees; and (5) other similar expenses and costs. For
26 purposes of this subparagraph, "intangible property"

1 includes patents, patent applications, trade names,
2 trademarks, service marks, copyrights, mask works,
3 trade secrets, and similar types of intangible assets.

4 This paragraph shall not apply to the following:

5 (i) any item of intangible expenses or costs
6 paid, accrued, or incurred, directly or
7 indirectly, from a transaction with a person who is
8 subject in a foreign country or state, other than a
9 state which requires mandatory unitary reporting,
10 to a tax on or measured by net income with respect
11 to such item; or

12 (ii) any item of intangible expense or cost
13 paid, accrued, or incurred, directly or
14 indirectly, if the taxpayer can establish, based
15 on a preponderance of the evidence, both of the
16 following:

17 (a) the person during the same taxable
18 year paid, accrued, or incurred, the
19 intangible expense or cost to a person that is
20 not a related member, and

21 (b) the transaction giving rise to the
22 intangible expense or cost between the
23 taxpayer and the person did not have as a
24 principal purpose the avoidance of Illinois
25 income tax, and is paid pursuant to a contract
26 or agreement that reflects arm's-length terms;

1 or

2 (iii) any item of intangible expense or cost
3 paid, accrued, or incurred, directly or
4 indirectly, from a transaction with a person if the
5 taxpayer establishes by clear and convincing
6 evidence, that the adjustments are unreasonable;
7 or if the taxpayer and the Director agree in
8 writing to the application or use of an alternative
9 method of apportionment under Section 304(f);

10 Nothing in this subsection shall preclude the
11 Director from making any other adjustment
12 otherwise allowed under Section 404 of this Act for
13 any tax year beginning after the effective date of
14 this amendment provided such adjustment is made
15 pursuant to regulation adopted by the Department
16 and such regulations provide methods and standards
17 by which the Department will utilize its authority
18 under Section 404 of this Act;

19 (G-14) For taxable years ending on or after
20 December 31, 2008, an amount equal to the amount of
21 insurance premium expenses and costs otherwise allowed
22 as a deduction in computing base income, and that were
23 paid, accrued, or incurred, directly or indirectly, to
24 a person who would be a member of the same unitary
25 business group but for the fact that the person is
26 prohibited under Section 1501(a)(27) from being

1 included in the unitary business group because he or
2 she is ordinarily required to apportion business
3 income under different subsections of Section 304. The
4 addition modification required by this subparagraph
5 shall be reduced to the extent that dividends were
6 included in base income of the unitary group for the
7 same taxable year and received by the taxpayer or by a
8 member of the taxpayer's unitary business group
9 (including amounts included in gross income under
10 Sections 951 through 964 of the Internal Revenue Code
11 and amounts included in gross income under Section 78
12 of the Internal Revenue Code) with respect to the stock
13 of the same person to whom the premiums and costs were
14 directly or indirectly paid, incurred, or accrued. The
15 preceding sentence does not apply to the extent that
16 the same dividends caused a reduction to the addition
17 modification required under Section 203(c) (2) (G-12) or
18 Section 203(c) (2) (G-13) of this Act;

19 (G-15) An amount equal to the credit allowable to
20 the taxpayer under Section 218(a) of this Act,
21 determined without regard to Section 218(c) of this
22 Act;

23 and by deducting from the total so obtained the sum of the
24 following amounts:

25 (H) An amount equal to all amounts included in such
26 total pursuant to the provisions of Sections 402(a),

1 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
2 Internal Revenue Code or included in such total as
3 distributions under the provisions of any retirement
4 or disability plan for employees of any governmental
5 agency or unit, or retirement payments to retired
6 partners, which payments are excluded in computing net
7 earnings from self employment by Section 1402 of the
8 Internal Revenue Code and regulations adopted pursuant
9 thereto;

10 (I) The valuation limitation amount;

11 (J) An amount equal to the amount of any tax
12 imposed by this Act which was refunded to the taxpayer
13 and included in such total for the taxable year;

14 (K) An amount equal to all amounts included in
15 taxable income as modified by subparagraphs (A), (B),
16 (C), (D), (E), (F) and (G) which are exempt from
17 taxation by this State either by reason of its statutes
18 or Constitution or by reason of the Constitution,
19 treaties or statutes of the United States; provided
20 that, in the case of any statute of this State that
21 exempts income derived from bonds or other obligations
22 from the tax imposed under this Act, the amount
23 exempted shall be the interest net of bond premium
24 amortization;

25 (L) With the exception of any amounts subtracted
26 under subparagraph (K), an amount equal to the sum of

1 all amounts disallowed as deductions by (i) Sections
2 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
3 and all amounts of expenses allocable to interest and
4 disallowed as deductions by Section 265(1) of the
5 Internal Revenue Code; and (ii) for taxable years
6 ending on or after August 13, 1999, Sections 171(a) (2),
7 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
8 Code, plus, (iii) for taxable years ending on or after
9 December 31, 2011, Section 45G(e) (3) of the Internal
10 Revenue Code and, for taxable years ending on or after
11 December 31, 2008, any amount included in gross income
12 under Section 87 of the Internal Revenue Code; the
13 provisions of this subparagraph are exempt from the
14 provisions of Section 250;

15 (M) An amount equal to those dividends included in
16 such total which were paid by a corporation which
17 conducts business operations in a River Edge
18 Redevelopment Zone or zones created under the River
19 Edge Redevelopment Zone Act and conducts substantially
20 all of its operations in a River Edge Redevelopment
21 Zone or zones. This subparagraph (M) is exempt from the
22 provisions of Section 250;

23 (N) An amount equal to any contribution made to a
24 job training project established pursuant to the Tax
25 Increment Allocation Redevelopment Act;

26 (O) An amount equal to those dividends included in

1 such total that were paid by a corporation that
2 conducts business operations in a federally designated
3 Foreign Trade Zone or Sub-Zone and that is designated a
4 High Impact Business located in Illinois; provided
5 that dividends eligible for the deduction provided in
6 subparagraph (M) of paragraph (2) of this subsection
7 shall not be eligible for the deduction provided under
8 this subparagraph (O);

9 (P) An amount equal to the amount of the deduction
10 used to compute the federal income tax credit for
11 restoration of substantial amounts held under claim of
12 right for the taxable year pursuant to Section 1341 of
13 the Internal Revenue Code;

14 (Q) For taxable year 1999 and thereafter, an amount
15 equal to the amount of any (i) distributions, to the
16 extent includible in gross income for federal income
17 tax purposes, made to the taxpayer because of his or
18 her status as a victim of persecution for racial or
19 religious reasons by Nazi Germany or any other Axis
20 regime or as an heir of the victim and (ii) items of
21 income, to the extent includible in gross income for
22 federal income tax purposes, attributable to, derived
23 from or in any way related to assets stolen from,
24 hidden from, or otherwise lost to a victim of
25 persecution for racial or religious reasons by Nazi
26 Germany or any other Axis regime immediately prior to,

1 during, and immediately after World War II, including,
2 but not limited to, interest on the proceeds receivable
3 as insurance under policies issued to a victim of
4 persecution for racial or religious reasons by Nazi
5 Germany or any other Axis regime by European insurance
6 companies immediately prior to and during World War II;
7 provided, however, this subtraction from federal
8 adjusted gross income does not apply to assets acquired
9 with such assets or with the proceeds from the sale of
10 such assets; provided, further, this paragraph shall
11 only apply to a taxpayer who was the first recipient of
12 such assets after their recovery and who is a victim of
13 persecution for racial or religious reasons by Nazi
14 Germany or any other Axis regime or as an heir of the
15 victim. The amount of and the eligibility for any
16 public assistance, benefit, or similar entitlement is
17 not affected by the inclusion of items (i) and (ii) of
18 this paragraph in gross income for federal income tax
19 purposes. This paragraph is exempt from the provisions
20 of Section 250;

21 (R) For taxable years 2001 and thereafter, for the
22 taxable year in which the bonus depreciation deduction
23 is taken on the taxpayer's federal income tax return
24 under subsection (k) of Section 168 of the Internal
25 Revenue Code and for each applicable taxable year
26 thereafter, an amount equal to "x", where:

1 (1) "y" equals the amount of the depreciation
2 deduction taken for the taxable year on the
3 taxpayer's federal income tax return on property
4 for which the bonus depreciation deduction was
5 taken in any year under subsection (k) of Section
6 168 of the Internal Revenue Code, but not including
7 the bonus depreciation deduction;

8 (2) for taxable years ending on or before
9 December 31, 2005, "x" equals "y" multiplied by 30
10 and then divided by 70 (or "y" multiplied by
11 0.429); and

12 (3) for taxable years ending after December
13 31, 2005:

14 (i) for property on which a bonus
15 depreciation deduction of 30% of the adjusted
16 basis was taken, "x" equals "y" multiplied by
17 30 and then divided by 70 (or "y" multiplied by
18 0.429); and

19 (ii) for property on which a bonus
20 depreciation deduction of 50% of the adjusted
21 basis was taken, "x" equals "y" multiplied by
22 1.0.

23 The aggregate amount deducted under this
24 subparagraph in all taxable years for any one piece of
25 property may not exceed the amount of the bonus
26 depreciation deduction taken on that property on the

1 taxpayer's federal income tax return under subsection
2 (k) of Section 168 of the Internal Revenue Code. This
3 subparagraph (R) is exempt from the provisions of
4 Section 250;

5 (S) If the taxpayer sells, transfers, abandons, or
6 otherwise disposes of property for which the taxpayer
7 was required in any taxable year to make an addition
8 modification under subparagraph (G-10), then an amount
9 equal to that addition modification.

10 If the taxpayer continues to own property through
11 the last day of the last tax year for which the
12 taxpayer may claim a depreciation deduction for
13 federal income tax purposes and for which the taxpayer
14 was required in any taxable year to make an addition
15 modification under subparagraph (G-10), then an amount
16 equal to that addition modification.

17 The taxpayer is allowed to take the deduction under
18 this subparagraph only once with respect to any one
19 piece of property.

20 This subparagraph (S) is exempt from the
21 provisions of Section 250;

22 (T) The amount of (i) any interest income (net of
23 the deductions allocable thereto) taken into account
24 for the taxable year with respect to a transaction with
25 a taxpayer that is required to make an addition
26 modification with respect to such transaction under

1 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
2 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
3 the amount of such addition modification and (ii) any
4 income from intangible property (net of the deductions
5 allocable thereto) taken into account for the taxable
6 year with respect to a transaction with a taxpayer that
7 is required to make an addition modification with
8 respect to such transaction under Section
9 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
10 203(d)(2)(D-8), but not to exceed the amount of such
11 addition modification. This subparagraph (T) is exempt
12 from the provisions of Section 250;

13 (U) An amount equal to the interest income taken
14 into account for the taxable year (net of the
15 deductions allocable thereto) with respect to
16 transactions with (i) a foreign person who would be a
17 member of the taxpayer's unitary business group but for
18 the fact the foreign person's business activity
19 outside the United States is 80% or more of that
20 person's total business activity and (ii) for taxable
21 years ending on or after December 31, 2008, to a person
22 who would be a member of the same unitary business
23 group but for the fact that the person is prohibited
24 under Section 1501(a)(27) from being included in the
25 unitary business group because he or she is ordinarily
26 required to apportion business income under different

1 subsections of Section 304, but not to exceed the
2 addition modification required to be made for the same
3 taxable year under Section 203(c)(2)(G-12) for
4 interest paid, accrued, or incurred, directly or
5 indirectly, to the same person. This subparagraph (U)
6 is exempt from the provisions of Section 250;

7 (V) An amount equal to the income from intangible
8 property taken into account for the taxable year (net
9 of the deductions allocable thereto) with respect to
10 transactions with (i) a foreign person who would be a
11 member of the taxpayer's unitary business group but for
12 the fact that the foreign person's business activity
13 outside the United States is 80% or more of that
14 person's total business activity and (ii) for taxable
15 years ending on or after December 31, 2008, to a person
16 who would be a member of the same unitary business
17 group but for the fact that the person is prohibited
18 under Section 1501(a)(27) from being included in the
19 unitary business group because he or she is ordinarily
20 required to apportion business income under different
21 subsections of Section 304, but not to exceed the
22 addition modification required to be made for the same
23 taxable year under Section 203(c)(2)(G-13) for
24 intangible expenses and costs paid, accrued, or
25 incurred, directly or indirectly, to the same foreign
26 person. This subparagraph (V) is exempt from the

1 provisions of Section 250;

2 (W) in the case of an estate, an amount equal to
3 all amounts included in such total pursuant to the
4 provisions of Section 111 of the Internal Revenue Code
5 as a recovery of items previously deducted by the
6 decedent from adjusted gross income in the computation
7 of taxable income. This subparagraph (W) is exempt from
8 Section 250;

9 (X) an amount equal to the refund included in such
10 total of any tax deducted for federal income tax
11 purposes, to the extent that deduction was added back
12 under subparagraph (F). This subparagraph (X) is
13 exempt from the provisions of Section 250; and

14 (Y) For taxable years ending on or after December
15 31, 2011, in the case of a taxpayer who was required to
16 add back any insurance premiums under Section
17 203(c)(2)(G-14), such taxpayer may elect to subtract
18 that part of a reimbursement received from the
19 insurance company equal to the amount of the expense or
20 loss (including expenses incurred by the insurance
21 company) that would have been taken into account as a
22 deduction for federal income tax purposes if the
23 expense or loss had been uninsured. If a taxpayer makes
24 the election provided for by this subparagraph (Y), the
25 insurer to which the premiums were paid must add back
26 to income the amount subtracted by the taxpayer

1 pursuant to this subparagraph (Y). This subparagraph
2 (Y) is exempt from the provisions of Section 250.

3 (3) Limitation. The amount of any modification
4 otherwise required under this subsection shall, under
5 regulations prescribed by the Department, be adjusted by
6 any amounts included therein which were properly paid,
7 credited, or required to be distributed, or permanently set
8 aside for charitable purposes pursuant to Internal Revenue
9 Code Section 642(c) during the taxable year.

10 (d) Partnerships.

11 (1) In general. In the case of a partnership, base
12 income means an amount equal to the taxpayer's taxable
13 income for the taxable year as modified by paragraph (2).

14 (2) Modifications. The taxable income referred to in
15 paragraph (1) shall be modified by adding thereto the sum
16 of the following amounts:

17 (A) An amount equal to all amounts paid or accrued
18 to the taxpayer as interest or dividends during the
19 taxable year to the extent excluded from gross income
20 in the computation of taxable income;

21 (B) An amount equal to the amount of tax imposed by
22 this Act to the extent deducted from gross income for
23 the taxable year;

24 (C) The amount of deductions allowed to the
25 partnership pursuant to Section 707 (c) of the Internal

1 Revenue Code in calculating its taxable income;

2 (D) An amount equal to the amount of the capital
3 gain deduction allowable under the Internal Revenue
4 Code, to the extent deducted from gross income in the
5 computation of taxable income;

6 (D-5) For taxable years 2001 and thereafter, an
7 amount equal to the bonus depreciation deduction taken
8 on the taxpayer's federal income tax return for the
9 taxable year under subsection (k) of Section 168 of the
10 Internal Revenue Code;

11 (D-6) If the taxpayer sells, transfers, abandons,
12 or otherwise disposes of property for which the
13 taxpayer was required in any taxable year to make an
14 addition modification under subparagraph (D-5), then
15 an amount equal to the aggregate amount of the
16 deductions taken in all taxable years under
17 subparagraph (O) with respect to that property.

18 If the taxpayer continues to own property through
19 the last day of the last tax year for which the
20 taxpayer may claim a depreciation deduction for
21 federal income tax purposes and for which the taxpayer
22 was allowed in any taxable year to make a subtraction
23 modification under subparagraph (O), then an amount
24 equal to that subtraction modification.

25 The taxpayer is required to make the addition
26 modification under this subparagraph only once with

1 respect to any one piece of property;

2 (D-7) An amount equal to the amount otherwise
3 allowed as a deduction in computing base income for
4 interest paid, accrued, or incurred, directly or
5 indirectly, (i) for taxable years ending on or after
6 December 31, 2004, to a foreign person who would be a
7 member of the same unitary business group but for the
8 fact the foreign person's business activity outside
9 the United States is 80% or more of the foreign
10 person's total business activity and (ii) for taxable
11 years ending on or after December 31, 2008, to a person
12 who would be a member of the same unitary business
13 group but for the fact that the person is prohibited
14 under Section 1501(a)(27) from being included in the
15 unitary business group because he or she is ordinarily
16 required to apportion business income under different
17 subsections of Section 304. The addition modification
18 required by this subparagraph shall be reduced to the
19 extent that dividends were included in base income of
20 the unitary group for the same taxable year and
21 received by the taxpayer or by a member of the
22 taxpayer's unitary business group (including amounts
23 included in gross income pursuant to Sections 951
24 through 964 of the Internal Revenue Code and amounts
25 included in gross income under Section 78 of the
26 Internal Revenue Code) with respect to the stock of the

1 same person to whom the interest was paid, accrued, or
2 incurred.

3 This paragraph shall not apply to the following:

4 (i) an item of interest paid, accrued, or
5 incurred, directly or indirectly, to a person who
6 is subject in a foreign country or state, other
7 than a state which requires mandatory unitary
8 reporting, to a tax on or measured by net income
9 with respect to such interest; or

10 (ii) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a person if
12 the taxpayer can establish, based on a
13 preponderance of the evidence, both of the
14 following:

15 (a) the person, during the same taxable
16 year, paid, accrued, or incurred, the interest
17 to a person that is not a related member, and

18 (b) the transaction giving rise to the
19 interest expense between the taxpayer and the
20 person did not have as a principal purpose the
21 avoidance of Illinois income tax, and is paid
22 pursuant to a contract or agreement that
23 reflects an arm's-length interest rate and
24 terms; or

25 (iii) the taxpayer can establish, based on
26 clear and convincing evidence, that the interest

1 paid, accrued, or incurred relates to a contract or
2 agreement entered into at arm's-length rates and
3 terms and the principal purpose for the payment is
4 not federal or Illinois tax avoidance; or

5 (iv) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to a person if
7 the taxpayer establishes by clear and convincing
8 evidence that the adjustments are unreasonable; or
9 if the taxpayer and the Director agree in writing
10 to the application or use of an alternative method
11 of apportionment under Section 304(f).

12 Nothing in this subsection shall preclude the
13 Director from making any other adjustment
14 otherwise allowed under Section 404 of this Act for
15 any tax year beginning after the effective date of
16 this amendment provided such adjustment is made
17 pursuant to regulation adopted by the Department
18 and such regulations provide methods and standards
19 by which the Department will utilize its authority
20 under Section 404 of this Act; and

21 (D-8) An amount equal to the amount of intangible
22 expenses and costs otherwise allowed as a deduction in
23 computing base income, and that were paid, accrued, or
24 incurred, directly or indirectly, (i) for taxable
25 years ending on or after December 31, 2004, to a
26 foreign person who would be a member of the same

1 unitary business group but for the fact that the
2 foreign person's business activity outside the United
3 States is 80% or more of that person's total business
4 activity and (ii) for taxable years ending on or after
5 December 31, 2008, to a person who would be a member of
6 the same unitary business group but for the fact that
7 the person is prohibited under Section 1501(a)(27)
8 from being included in the unitary business group
9 because he or she is ordinarily required to apportion
10 business income under different subsections of Section
11 304. The addition modification required by this
12 subparagraph shall be reduced to the extent that
13 dividends were included in base income of the unitary
14 group for the same taxable year and received by the
15 taxpayer or by a member of the taxpayer's unitary
16 business group (including amounts included in gross
17 income pursuant to Sections 951 through 964 of the
18 Internal Revenue Code and amounts included in gross
19 income under Section 78 of the Internal Revenue Code)
20 with respect to the stock of the same person to whom
21 the intangible expenses and costs were directly or
22 indirectly paid, incurred or accrued. The preceding
23 sentence shall not apply to the extent that the same
24 dividends caused a reduction to the addition
25 modification required under Section 203(d)(2)(D-7) of
26 this Act. As used in this subparagraph, the term

1 "intangible expenses and costs" includes (1) expenses,
2 losses, and costs for, or related to, the direct or
3 indirect acquisition, use, maintenance or management,
4 ownership, sale, exchange, or any other disposition of
5 intangible property; (2) losses incurred, directly or
6 indirectly, from factoring transactions or discounting
7 transactions; (3) royalty, patent, technical, and
8 copyright fees; (4) licensing fees; and (5) other
9 similar expenses and costs. For purposes of this
10 subparagraph, "intangible property" includes patents,
11 patent applications, trade names, trademarks, service
12 marks, copyrights, mask works, trade secrets, and
13 similar types of intangible assets;

14 This paragraph shall not apply to the following:

15 (i) any item of intangible expenses or costs
16 paid, accrued, or incurred, directly or
17 indirectly, from a transaction with a person who is
18 subject in a foreign country or state, other than a
19 state which requires mandatory unitary reporting,
20 to a tax on or measured by net income with respect
21 to such item; or

22 (ii) any item of intangible expense or cost
23 paid, accrued, or incurred, directly or
24 indirectly, if the taxpayer can establish, based
25 on a preponderance of the evidence, both of the
26 following:

1 (a) the person during the same taxable
2 year paid, accrued, or incurred, the
3 intangible expense or cost to a person that is
4 not a related member, and

5 (b) the transaction giving rise to the
6 intangible expense or cost between the
7 taxpayer and the person did not have as a
8 principal purpose the avoidance of Illinois
9 income tax, and is paid pursuant to a contract
10 or agreement that reflects arm's-length terms;
11 or

12 (iii) any item of intangible expense or cost
13 paid, accrued, or incurred, directly or
14 indirectly, from a transaction with a person if the
15 taxpayer establishes by clear and convincing
16 evidence, that the adjustments are unreasonable;
17 or if the taxpayer and the Director agree in
18 writing to the application or use of an alternative
19 method of apportionment under Section 304(f);

20 Nothing in this subsection shall preclude the
21 Director from making any other adjustment
22 otherwise allowed under Section 404 of this Act for
23 any tax year beginning after the effective date of
24 this amendment provided such adjustment is made
25 pursuant to regulation adopted by the Department
26 and such regulations provide methods and standards

1 by which the Department will utilize its authority
2 under Section 404 of this Act;

3 (D-9) For taxable years ending on or after December
4 31, 2008, an amount equal to the amount of insurance
5 premium expenses and costs otherwise allowed as a
6 deduction in computing base income, and that were paid,
7 accrued, or incurred, directly or indirectly, to a
8 person who would be a member of the same unitary
9 business group but for the fact that the person is
10 prohibited under Section 1501(a)(27) from being
11 included in the unitary business group because he or
12 she is ordinarily required to apportion business
13 income under different subsections of Section 304. The
14 addition modification required by this subparagraph
15 shall be reduced to the extent that dividends were
16 included in base income of the unitary group for the
17 same taxable year and received by the taxpayer or by a
18 member of the taxpayer's unitary business group
19 (including amounts included in gross income under
20 Sections 951 through 964 of the Internal Revenue Code
21 and amounts included in gross income under Section 78
22 of the Internal Revenue Code) with respect to the stock
23 of the same person to whom the premiums and costs were
24 directly or indirectly paid, incurred, or accrued. The
25 preceding sentence does not apply to the extent that
26 the same dividends caused a reduction to the addition

1 modification required under Section 203(d) (2) (D-7) or
2 Section 203(d) (2) (D-8) of this Act;

3 (D-10) An amount equal to the credit allowable to
4 the taxpayer under Section 218(a) of this Act,
5 determined without regard to Section 218(c) of this
6 Act;

7 and by deducting from the total so obtained the following
8 amounts:

9 (E) The valuation limitation amount;

10 (F) An amount equal to the amount of any tax
11 imposed by this Act which was refunded to the taxpayer
12 and included in such total for the taxable year;

13 (G) An amount equal to all amounts included in
14 taxable income as modified by subparagraphs (A), (B),
15 (C) and (D) which are exempt from taxation by this
16 State either by reason of its statutes or Constitution
17 or by reason of the Constitution, treaties or statutes
18 of the United States; provided that, in the case of any
19 statute of this State that exempts income derived from
20 bonds or other obligations from the tax imposed under
21 this Act, the amount exempted shall be the interest net
22 of bond premium amortization;

23 (H) Any income of the partnership which
24 constitutes personal service income as defined in
25 Section 1348 (b) (1) of the Internal Revenue Code (as
26 in effect December 31, 1981) or a reasonable allowance

1 for compensation paid or accrued for services rendered
2 by partners to the partnership, whichever is greater;
3 this subparagraph (H) is exempt from the provisions of
4 Section 250;

5 (I) An amount equal to all amounts of income
6 distributable to an entity subject to the Personal
7 Property Tax Replacement Income Tax imposed by
8 subsections (c) and (d) of Section 201 of this Act
9 including amounts distributable to organizations
10 exempt from federal income tax by reason of Section
11 501(a) of the Internal Revenue Code; this subparagraph
12 (I) is exempt from the provisions of Section 250;

13 (J) With the exception of any amounts subtracted
14 under subparagraph (G), an amount equal to the sum of
15 all amounts disallowed as deductions by (i) Sections
16 171(a) (2), and 265(2) of the Internal Revenue Code,
17 and all amounts of expenses allocable to interest and
18 disallowed as deductions by Section 265(1) of the
19 Internal Revenue Code; and (ii) for taxable years
20 ending on or after August 13, 1999, Sections 171(a) (2),
21 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
22 Code, plus, (iii) for taxable years ending on or after
23 December 31, 2011, Section 45G(e) (3) of the Internal
24 Revenue Code and, for taxable years ending on or after
25 December 31, 2008, any amount included in gross income
26 under Section 87 of the Internal Revenue Code; the

1 provisions of this subparagraph are exempt from the
2 provisions of Section 250;

3 (K) An amount equal to those dividends included in
4 such total which were paid by a corporation which
5 conducts business operations in a River Edge
6 Redevelopment Zone or zones created under the River
7 Edge Redevelopment Zone Act and conducts substantially
8 all of its operations from a River Edge Redevelopment
9 Zone or zones. This subparagraph (K) is exempt from the
10 provisions of Section 250;

11 (L) An amount equal to any contribution made to a
12 job training project established pursuant to the Real
13 Property Tax Increment Allocation Redevelopment Act;

14 (M) An amount equal to those dividends included in
15 such total that were paid by a corporation that
16 conducts business operations in a federally designated
17 Foreign Trade Zone or Sub-Zone and that is designated a
18 High Impact Business located in Illinois; provided
19 that dividends eligible for the deduction provided in
20 subparagraph (K) of paragraph (2) of this subsection
21 shall not be eligible for the deduction provided under
22 this subparagraph (M);

23 (N) An amount equal to the amount of the deduction
24 used to compute the federal income tax credit for
25 restoration of substantial amounts held under claim of
26 right for the taxable year pursuant to Section 1341 of

1 the Internal Revenue Code;

2 (O) For taxable years 2001 and thereafter, for the
3 taxable year in which the bonus depreciation deduction
4 is taken on the taxpayer's federal income tax return
5 under subsection (k) of Section 168 of the Internal
6 Revenue Code and for each applicable taxable year
7 thereafter, an amount equal to "x", where:

8 (1) "y" equals the amount of the depreciation
9 deduction taken for the taxable year on the
10 taxpayer's federal income tax return on property
11 for which the bonus depreciation deduction was
12 taken in any year under subsection (k) of Section
13 168 of the Internal Revenue Code, but not including
14 the bonus depreciation deduction;

15 (2) for taxable years ending on or before
16 December 31, 2005, "x" equals "y" multiplied by 30
17 and then divided by 70 (or "y" multiplied by
18 0.429); and

19 (3) for taxable years ending after December
20 31, 2005:

21 (i) for property on which a bonus
22 depreciation deduction of 30% of the adjusted
23 basis was taken, "x" equals "y" multiplied by
24 30 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (ii) for property on which a bonus

1 depreciation deduction of 50% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 1.0.

4 The aggregate amount deducted under this
5 subparagraph in all taxable years for any one piece of
6 property may not exceed the amount of the bonus
7 depreciation deduction taken on that property on the
8 taxpayer's federal income tax return under subsection
9 (k) of Section 168 of the Internal Revenue Code. This
10 subparagraph (O) is exempt from the provisions of
11 Section 250;

12 (P) If the taxpayer sells, transfers, abandons, or
13 otherwise disposes of property for which the taxpayer
14 was required in any taxable year to make an addition
15 modification under subparagraph (D-5), then an amount
16 equal to that addition modification.

17 If the taxpayer continues to own property through
18 the last day of the last tax year for which the
19 taxpayer may claim a depreciation deduction for
20 federal income tax purposes and for which the taxpayer
21 was required in any taxable year to make an addition
22 modification under subparagraph (D-5), then an amount
23 equal to that addition modification.

24 The taxpayer is allowed to take the deduction under
25 this subparagraph only once with respect to any one
26 piece of property.

1 This subparagraph (P) is exempt from the
2 provisions of Section 250;

3 (Q) The amount of (i) any interest income (net of
4 the deductions allocable thereto) taken into account
5 for the taxable year with respect to a transaction with
6 a taxpayer that is required to make an addition
7 modification with respect to such transaction under
8 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
9 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
10 the amount of such addition modification and (ii) any
11 income from intangible property (net of the deductions
12 allocable thereto) taken into account for the taxable
13 year with respect to a transaction with a taxpayer that
14 is required to make an addition modification with
15 respect to such transaction under Section
16 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
17 203(d)(2)(D-8), but not to exceed the amount of such
18 addition modification. This subparagraph (Q) is exempt
19 from Section 250;

20 (R) An amount equal to the interest income taken
21 into account for the taxable year (net of the
22 deductions allocable thereto) with respect to
23 transactions with (i) a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that

1 person's total business activity and (ii) for taxable
2 years ending on or after December 31, 2008, to a person
3 who would be a member of the same unitary business
4 group but for the fact that the person is prohibited
5 under Section 1501(a)(27) from being included in the
6 unitary business group because he or she is ordinarily
7 required to apportion business income under different
8 subsections of Section 304, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(d)(2)(D-7) for interest
11 paid, accrued, or incurred, directly or indirectly, to
12 the same person. This subparagraph (R) is exempt from
13 Section 250;

14 (S) An amount equal to the income from intangible
15 property taken into account for the taxable year (net
16 of the deductions allocable thereto) with respect to
17 transactions with (i) a foreign person who would be a
18 member of the taxpayer's unitary business group but for
19 the fact that the foreign person's business activity
20 outside the United States is 80% or more of that
21 person's total business activity and (ii) for taxable
22 years ending on or after December 31, 2008, to a person
23 who would be a member of the same unitary business
24 group but for the fact that the person is prohibited
25 under Section 1501(a)(27) from being included in the
26 unitary business group because he or she is ordinarily

1 required to apportion business income under different
2 subsections of Section 304, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(d)(2)(D-8) for
5 intangible expenses and costs paid, accrued, or
6 incurred, directly or indirectly, to the same person.
7 This subparagraph (S) is exempt from Section 250; and

8 (T) For taxable years ending on or after December
9 31, 2011, in the case of a taxpayer who was required to
10 add back any insurance premiums under Section
11 203(d)(2)(D-9), such taxpayer may elect to subtract
12 that part of a reimbursement received from the
13 insurance company equal to the amount of the expense or
14 loss (including expenses incurred by the insurance
15 company) that would have been taken into account as a
16 deduction for federal income tax purposes if the
17 expense or loss had been uninsured. If a taxpayer makes
18 the election provided for by this subparagraph (T), the
19 insurer to which the premiums were paid must add back
20 to income the amount subtracted by the taxpayer
21 pursuant to this subparagraph (T). This subparagraph
22 (T) is exempt from the provisions of Section 250.

23 (e) Gross income; adjusted gross income; taxable income.

24 (1) In general. Subject to the provisions of paragraph
25 (2) and subsection (b) (3), for purposes of this Section

1 and Section 803(e), a taxpayer's gross income, adjusted
2 gross income, or taxable income for the taxable year shall
3 mean the amount of gross income, adjusted gross income or
4 taxable income properly reportable for federal income tax
5 purposes for the taxable year under the provisions of the
6 Internal Revenue Code. Taxable income may be less than
7 zero. However, for taxable years ending on or after
8 December 31, 1986, net operating loss carryforwards from
9 taxable years ending prior to December 31, 1986, may not
10 exceed the sum of federal taxable income for the taxable
11 year before net operating loss deduction, plus the excess
12 of addition modifications over subtraction modifications
13 for the taxable year. For taxable years ending prior to
14 December 31, 1986, taxable income may never be an amount in
15 excess of the net operating loss for the taxable year as
16 defined in subsections (c) and (d) of Section 172 of the
17 Internal Revenue Code, provided that when taxable income of
18 a corporation (other than a Subchapter S corporation),
19 trust, or estate is less than zero and addition
20 modifications, other than those provided by subparagraph
21 (E) of paragraph (2) of subsection (b) for corporations or
22 subparagraph (E) of paragraph (2) of subsection (c) for
23 trusts and estates, exceed subtraction modifications, an
24 addition modification must be made under those
25 subparagraphs for any other taxable year to which the
26 taxable income less than zero (net operating loss) is

1 applied under Section 172 of the Internal Revenue Code or
2 under subparagraph (E) of paragraph (2) of this subsection
3 (e) applied in conjunction with Section 172 of the Internal
4 Revenue Code.

5 (2) Special rule. For purposes of paragraph (1) of this
6 subsection, the taxable income properly reportable for
7 federal income tax purposes shall mean:

8 (A) Certain life insurance companies. In the case
9 of a life insurance company subject to the tax imposed
10 by Section 801 of the Internal Revenue Code, life
11 insurance company taxable income, plus the amount of
12 distribution from pre-1984 policyholder surplus
13 accounts as calculated under Section 815a of the
14 Internal Revenue Code;

15 (B) Certain other insurance companies. In the case
16 of mutual insurance companies subject to the tax
17 imposed by Section 831 of the Internal Revenue Code,
18 insurance company taxable income;

19 (C) Regulated investment companies. In the case of
20 a regulated investment company subject to the tax
21 imposed by Section 852 of the Internal Revenue Code,
22 investment company taxable income;

23 (D) Real estate investment trusts. In the case of a
24 real estate investment trust subject to the tax imposed
25 by Section 857 of the Internal Revenue Code, real
26 estate investment trust taxable income;

1 (E) Consolidated corporations. In the case of a
2 corporation which is a member of an affiliated group of
3 corporations filing a consolidated income tax return
4 for the taxable year for federal income tax purposes,
5 taxable income determined as if such corporation had
6 filed a separate return for federal income tax purposes
7 for the taxable year and each preceding taxable year
8 for which it was a member of an affiliated group. For
9 purposes of this subparagraph, the taxpayer's separate
10 taxable income shall be determined as if the election
11 provided by Section 243(b) (2) of the Internal Revenue
12 Code had been in effect for all such years;

13 (F) Cooperatives. In the case of a cooperative
14 corporation or association, the taxable income of such
15 organization determined in accordance with the
16 provisions of Section 1381 through 1388 of the Internal
17 Revenue Code, but without regard to the prohibition
18 against offsetting losses from patronage activities
19 against income from nonpatronage activities; except
20 that a cooperative corporation or association may make
21 an election to follow its federal income tax treatment
22 of patronage losses and nonpatronage losses. In the
23 event such election is made, such losses shall be
24 computed and carried over in a manner consistent with
25 subsection (a) of Section 207 of this Act and
26 apportioned by the apportionment factor reported by

1 the cooperative on its Illinois income tax return filed
2 for the taxable year in which the losses are incurred.
3 The election shall be effective for all taxable years
4 with original returns due on or after the date of the
5 election. In addition, the cooperative may file an
6 amended return or returns, as allowed under this Act,
7 to provide that the election shall be effective for
8 losses incurred or carried forward for taxable years
9 occurring prior to the date of the election. Once made,
10 the election may only be revoked upon approval of the
11 Director. The Department shall adopt rules setting
12 forth requirements for documenting the elections and
13 any resulting Illinois net loss and the standards to be
14 used by the Director in evaluating requests to revoke
15 elections. Public Act 96-932 is declaratory of
16 existing law;

17 (G) Subchapter S corporations. In the case of: (i)
18 a Subchapter S corporation for which there is in effect
19 an election for the taxable year under Section 1362 of
20 the Internal Revenue Code, the taxable income of such
21 corporation determined in accordance with Section
22 1363(b) of the Internal Revenue Code, except that
23 taxable income shall take into account those items
24 which are required by Section 1363(b)(1) of the
25 Internal Revenue Code to be separately stated; and (ii)
26 a Subchapter S corporation for which there is in effect

1 a federal election to opt out of the provisions of the
2 Subchapter S Revision Act of 1982 and have applied
3 instead the prior federal Subchapter S rules as in
4 effect on July 1, 1982, the taxable income of such
5 corporation determined in accordance with the federal
6 Subchapter S rules as in effect on July 1, 1982; and

7 (H) Partnerships. In the case of a partnership,
8 taxable income determined in accordance with Section
9 703 of the Internal Revenue Code, except that taxable
10 income shall take into account those items which are
11 required by Section 703(a)(1) to be separately stated
12 but which would be taken into account by an individual
13 in calculating his taxable income.

14 (3) Recapture of business expenses on disposition of
15 asset or business. Notwithstanding any other law to the
16 contrary, if in prior years income from an asset or
17 business has been classified as business income and in a
18 later year is demonstrated to be non-business income, then
19 all expenses, without limitation, deducted in such later
20 year and in the 2 immediately preceding taxable years
21 related to that asset or business that generated the
22 non-business income shall be added back and recaptured as
23 business income in the year of the disposition of the asset
24 or business. Such amount shall be apportioned to Illinois
25 using the greater of the apportionment fraction computed
26 for the business under Section 304 of this Act for the

1 taxable year or the average of the apportionment fractions
2 computed for the business under Section 304 of this Act for
3 the taxable year and for the 2 immediately preceding
4 taxable years.

5 (f) Valuation limitation amount.

6 (1) In general. The valuation limitation amount
7 referred to in subsections (a) (2) (G), (c) (2) (I) and
8 (d) (2) (E) is an amount equal to:

9 (A) The sum of the pre-August 1, 1969 appreciation
10 amounts (to the extent consisting of gain reportable
11 under the provisions of Section 1245 or 1250 of the
12 Internal Revenue Code) for all property in respect of
13 which such gain was reported for the taxable year; plus

14 (B) The lesser of (i) the sum of the pre-August 1,
15 1969 appreciation amounts (to the extent consisting of
16 capital gain) for all property in respect of which such
17 gain was reported for federal income tax purposes for
18 the taxable year, or (ii) the net capital gain for the
19 taxable year, reduced in either case by any amount of
20 such gain included in the amount determined under
21 subsection (a) (2) (F) or (c) (2) (H).

22 (2) Pre-August 1, 1969 appreciation amount.

23 (A) If the fair market value of property referred
24 to in paragraph (1) was readily ascertainable on August
25 1, 1969, the pre-August 1, 1969 appreciation amount for

1 such property is the lesser of (i) the excess of such
2 fair market value over the taxpayer's basis (for
3 determining gain) for such property on that date
4 (determined under the Internal Revenue Code as in
5 effect on that date), or (ii) the total gain realized
6 and reportable for federal income tax purposes in
7 respect of the sale, exchange or other disposition of
8 such property.

9 (B) If the fair market value of property referred
10 to in paragraph (1) was not readily ascertainable on
11 August 1, 1969, the pre-August 1, 1969 appreciation
12 amount for such property is that amount which bears the
13 same ratio to the total gain reported in respect of the
14 property for federal income tax purposes for the
15 taxable year, as the number of full calendar months in
16 that part of the taxpayer's holding period for the
17 property ending July 31, 1969 bears to the number of
18 full calendar months in the taxpayer's entire holding
19 period for the property.

20 (C) The Department shall prescribe such
21 regulations as may be necessary to carry out the
22 purposes of this paragraph.

23 (g) Double deductions. Unless specifically provided
24 otherwise, nothing in this Section shall permit the same item
25 to be deducted more than once.

1 (h) Legislative intention. Except as expressly provided by
2 this Section there shall be no modifications or limitations on
3 the amounts of income, gain, loss or deduction taken into
4 account in determining gross income, adjusted gross income or
5 taxable income for federal income tax purposes for the taxable
6 year, or in the amount of such items entering into the
7 computation of base income and net income under this Act for
8 such taxable year, whether in respect of property values as of
9 August 1, 1969 or otherwise.

10 (Source: P.A. 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198,
11 eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09;
12 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935, eff.
13 6-21-10; 96-1214, eff. 7-22-10; 97-333, eff. 8-12-11; 97-507,
14 eff. 8-23-11; 97-905, eff. 8-7-12.)